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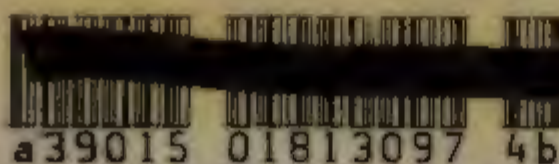
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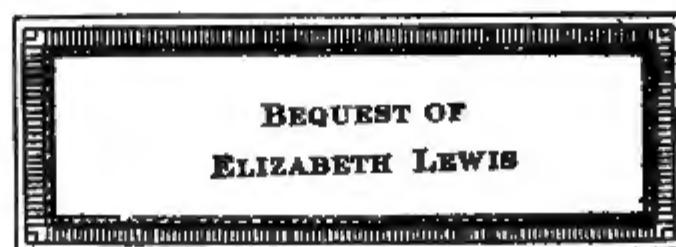
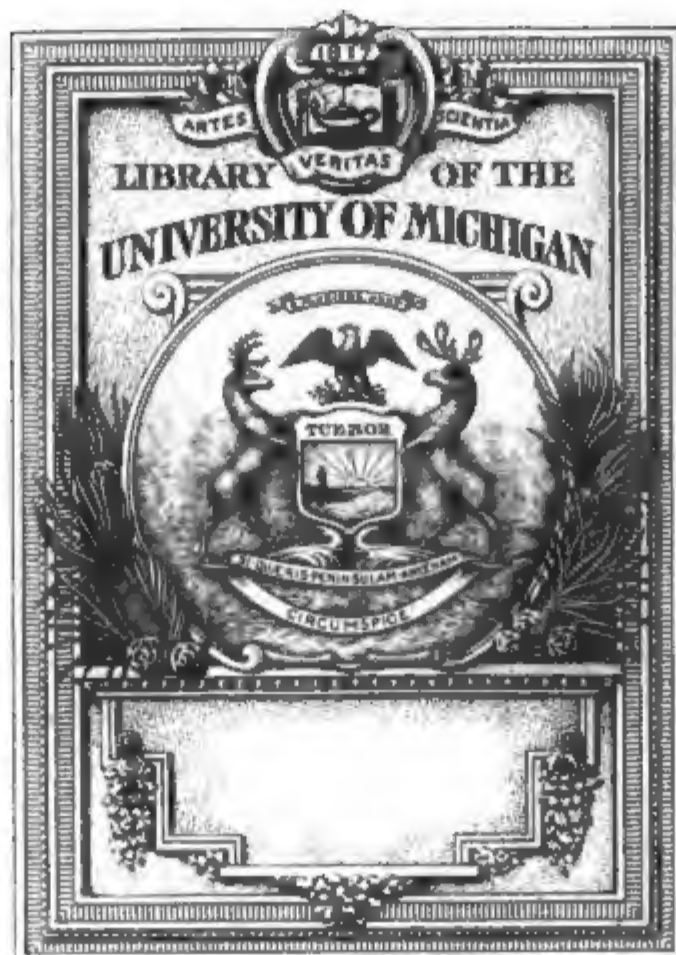
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RECORDS OF THE CAPE COLONY.

Cape of Good Hope

RECORDS OF THE CAPE COLONY

From FEBRUARY to JUNE 1827.

COPIED FOR THE CAPE GOVERNMENT, FROM THE
MANUSCRIPT DOCUMENTS IN THE PUBLIC
RECORD OFFICE, LONDON,

BY
GEORGE M^cCALL THEAL, D.Lit., LL.D.,
COLONIAL HISTORIOGRAPHER.



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RECORDS OF THE CAPE COLONY.

—♦—
[Original.]

Letter from MAJOR-GENERAL BOURKE *to* R. W. HAY, ESQRE.

GOVERNMENT HOUSE, CAPE TOWN, *February 25th* 1827.

MY DEAR SIR,—With reference to my letter of the 29th November last on the subject of Commandos against Bushmen, I have now the honor to transmit translations of the Reports of Fieldcornets of the Districts of Graaff Reinet, Worcester, and Stellenbosch, which complete the information required as far as the Records of this Government extend, and will probably enable you to comply with any order of the House of Commons which Mr. Fowell Buxton may obtain on this head.

I have &c.,

(Signed) RICHD. BOURKE.

[Enclosure 1 in the above.]

GRAAFF REINET, *January 4th* 1827.

SIR,—In compliance with your letter of the 30th November
// last I have the honor to enclose copies of all the Reports received from the Fieldcornets employed on the Commandos referred to in the returns transmitted under cover of my letter of the 22nd June 1824, as also of all reports received of subsequent Commandos. I have &c.

(Signed) A. STOCKENSTROM.

The Hon. Sir Richard Plasket,
Secretary to Government.

[Enclosure 2.]

Copies of Reports on Bosjesman Commandos and Expeditions referred to in this return transmitted to Government on the 22nd of June 1824, and subsequently received.

Extract from a letter from the Fieldcornet N. J. van der Walt to the Landdrost J. H. Fischer, dated 4th April 1813 :—

“ And I would have come myself, but I received a report in the evening from D. Plessis that the Bosjesmen had twice taken away his oxen, but, please the Lord, I hope to come away on the 20th.”

[Enclosure 3.]

Extract from a letter from J. H. Fischer to His Majesty's Commissary Colonel G. Vicars, dated 27th April 1813 :—

“ The Bosjesmen having again stolen eight oxen from the kraal of D. Duplessis, the Fieldcornet N. J. van der Walt, attended by some men have followed the track to the kraal, when the Bosjesmen perceived them they put themselves in a posture of defence, and they very nearly hit the Fieldcornet with an arrow, which rendered it necessary to fire on them. Four were killed, the remainder fled to the mountains, with whom they afterwards made peace by giving them tobacco, dacha, &c. These declared that two Hottentots who were among those who are killed had induced them to steal, the eight oxen had already been killed and the meat hung in the kraal to dry.”

(This report was made verbally to the Landdrost.)

[Enclosure 4.]

TARKA, 18th July 1816.

SIR,—We hereby report that on the 15th instant we returned home. We have followed up the track of the stolen cattle carried off by the Caffers to behind the Winterberg, the snow

had covered the track, and from spies we learned that three kraals had moved off, and we thought proper to go to the Bosjesmen. We met two of them in the field and made them prisoners. We proposed peace to them, we sent one of them to the kraal to propose peace, but the second at night ran away from us. And we have further enquired, they have been guilty of stealing horses and cattle. We went on further, and found again a kraal in which were two horses. They were then surrounded, and we offered them peace, that they were to surrender, although they had been guilty of horse stealing, but they refused to come out, and they defended themselves among the rocks, and began to shoot, and hit two men in their clothes but not their bodies. We therefore used force. Twenty fell in the fight, 24 were made prisoners. We further learned that the Caffers and Bosjesmen have dealings together in the stolen cattle, and we regret to say that two horses of our Commando have been stolen.

I remain your obedient Servant and Friend,

(Signed) W. VAN HEERDEN, Fieldcornet.

Agreed.

(Signed) S. J. VAN WYK, Fieldcornet.

To A. Stockenstrom, Esqre., Landdrost.

[Enclosure 5.]

CRADOCK, 11th November 1816.

SIR,—I have the honor to report to you that the Fieldcornet Van Wyk returned with his Commando on the 7th instant, and also met with the plundering Bosjesmen's kraal. He has taken the whole, 56 in number, prisoners. They have freely confessed to the Fieldcornet to have taken the cattle of D. and C. Muller, as also some of H. Potgieter, but that they had consumed the whole, even a part of the hides, of which the Fieldcornet found only a few remaining, besides some sheep skins. That the Fieldcornet had, according to their own request to live among the Christians, divided them provisionally among the Inhabitants of his district until he should receive

further orders respecting them, requesting however that if it were possible it might be so ordered, in order to show to the other Bosjesmen who are still plundering that there is no intention to hurt them provided they will leave off plundering and earn their subsistence among the Inhabitants.

The said Fieldcornet further reports that among the above number of Bosjesmen are certain Silvester and Wildschut, who some years ago were in irons at Graaff Reinet and had escaped, requesting that were it practicable, they might be pardoned, because that should they be sent for the others would certainly run away again and renew their depredations.

I have not given the Fieldcornet my decisive answer to either the one or the other of these subjects, but left the same provisionally until I had reported it to you and received your instructions respecting it. I have &c.

(Signed) J. F. VAN DE GRAAFF, Deputy Landdrost.

To A. Stockenstrom, Esqre., Landdrost.

[Enclosure 6.]

CRADOCK, 10th January 1817.

SIR,—On the 6th Instant I received a report from the Fieldcornet S. J. van Wyk that the commando which he had sent in pursuit of the horses that had been stolen from P. W. van Heerden had returned, that the commando had found the kraals of plundering Bosjesmen, from which they had taken three horses of the said Van Heerden and three of the children of T. de Bruyn, that they were attacked by the Bosjesmen, so that C. Muller was dangerously wounded by an arrow passing through his arm, and two others were shot through their clothes. Whereupon the commando killed ten of them, and took three prisoners. The said Fieldcornet also reports that in the month of December last the Bosjesmen had stolen three horses from P. C. Olivier, and three horses from T. de Bruyn, and that from O. Oosthuysen and from C. Botha each one ox had been killed by them.

On the 8th Instant I have received another report from the said Fieldcornet that the Bosjesmen have again killed two head of cattle from T. de Bruyn, and have carried off and

killed two horses belonging to the abovementioned Van Heerden, that the same Bosjesmen have been traced with two other horses into their country, not knowing to whom these horses belong, which two horses together with another horse were stolen by them from a place at the Bath, being all horses belonging to Hottentots here, when I caused the track to be followed, and it was found that they had killed one of the horses in the Eland's mountains and carried off part of the flesh.

I have also received a report from the fieldcornet Opperman, stating that at the Baviaans river during the month of December last the following robberies have been committed by the Bosjesmen, such as five oxen from F. Smit, some calves from L. Fourie, some of which they killed, the remainder returned, two saddle horses from D. Erasmus, also two saddle horses from E. Erasmus, and from the fieldcornet himself one saddle horse, all which they have kept. I have &c.

(Signed) J. F. VAN DE GRAAFF, Deputy Landdrost.

A. Stockenstrom, Esqre., Landdrost.

[Enclosure 7.]

TARKA, 4th September 1820.

Report to W. HARDING, ESQRE., Deputy Landdrost.

That the commando of the 25th of August last had come up with the robbing Bosjesmen who had then still thirteen horses in their possession. As soon as the Bosjesmen perceived the commando they endeavoured to conceal themselves behind the rocks, and shot a great many poisoned arrows, in consequence 16 of them were killed, one woman and two children were also killed, 58 women and children were taken, as also the horses. I have also met other wild Bosjesmen, with whom there was no appearance of their having robbed, and therefore they were left unmolested. I had it distinctly explained to them that if they did not rob they had no occasion to be afraid of the commando, for that the commando comes out only against robbers. I learned that there were still many horses in the hands of the Bosjesmen who were flying from the commando. On my return I have sent two of the female

prisoners to the robbers to let them know that if they leave off stealing, no harm would be done to them, but that if they would not leave off they must take the consequences. I have sent the prisoners to such persons where they will be able to learn to live without stealing.

Of the abovementioned horses 7 belong to F. du Plessis and Putter as mentioned in the report of the 17th of August last, and 4 belong to B. du Plessis, and one to C. Opperman.

I am &c.

(Signed) S. J. VAN WYK, Fieldcornet.

To W. W. Harding, Esqre., Deputy Landdrost.

[Enclosure 8.]

Extract of a Letter from the Landdrost of Graaff Reinet to the Colonial Secretary, dated 6th December 1821.

“I am sorry to have to report the renewal of depredations on the part of the Caffers and Bosjesmen. About the end of last month a party of the latter savages took twenty-two horses from A. Pienaar, and being overtaken killed eighteen, four only being recovered by the owner, when however three of the robbers were shot. The survivors notwithstanding returned immediately, and took seven head of cattle from the same Pienaar, were again overtaken, killed all the cattle, but eight of their number perished.”

(Report verbally made to the Landdrost.)

[Enclosure 9.]

BAVIAANS RIVER, 9th December 1821.

Report that I have sent a patrol in pursuit of the oxen taken by the Bosjesmen from Cornelis van der Nest, have found in the kraal near the corner beacon of C. van der Nest's place, killed a girl, also found all the oxen, but all killed.

Your servant,

(Signed) P. A. OPPERMAN, Fieldcornet.

W. W. Harding, Esqre., Deputy Landdrost.

[Enclosure 10.]

NIEUWVELD, 10th February 1822.

MR. BAIRD,—This is to report to you that on the 7th instant at 8 o'clock in the morning a great number of Bosjesmen have surprised the post at G. Mynhard's. Mynhard, his wife, and children escaped with difficulty. Upon which Mynhard hastily reported to me, also to the Fieldcornet Fourie. I immediately ordered out some men and went in pursuit of them, when I came up with them they were on a high mountain of dangerous access. We reached it however, and attacked them, but could effect nothing. The said Bosjesmen had with them 11 horses, and also firearms which they used valiantly against our men.

I retired and sent for more men. In the night the Bosjesmen fled. I returned home, but agreed with Fourie to resume it and follow them to their kraal, and I intend on Wednesday next the 13th to advance with a commando. May I request you, Sir, to assist me with powder and lead. I shall then send for it immediately. I beg also that you will assist me with some men from the Goup, since the kraal is very strong, if even it would make me lose a couple of days it would not signify, for it could then immediately be effected. Mynhard has lost all his property except his cattle. The Bosjesmen have taken from him 3 guns and powder and shot. Have the goodness Sir to send me an immediate answer. I remain your servant.

(Signed) J. VAN DER WESTHUIZEN, Fieldcornet.

[Enclosure 11.]

NIEUWVELD, 1st March 1822.

SIR,—Your letter of the 10th February last I have received, but as I was too far advanced and my commando supplied with every necessary and was upon the track of the vagabonds, it was impossible for me therefore to return, for my men were most determined to follow them and to recover the property they had carried away, and then to make peace with them, so that we may live in safety in our houses and possess securely our cattle in our grounds, but this seems to be contrary to the

wish of those vagabonds. They attack my district on every side, and do a great deal of damage. 24 head of cattle they have killed on a heap and about 50 sheep, which latter our patrol has retaken at the Pheasants mountain.

By our pursuit of the vagabonds we have come upon the kraal of Captain Mozes. As we approached the kraal they shot at us lustily. We rode into the kraal by force, as they would not come to terms. Mozes defended himself vigorously. He was shot with the bow in his hand, together with 11 others. Arrows came in every direction. We were obliged to defend our lives. Six females were taken, of whom I left four in the kraal to tell their husbands that when they should send back the other property no harm would be done to them, and that we would live in peace with them. The Fieldcornet I. van der Westhuizen and the Fieldcornet Burger have bravely supported me.

I send you herewith Sir a list of the horses and other property which I have found in the kraal, and I shall send for Mynhard and for the Widow of Reyneke for the purpose that they may identify their property. The remainder I shall send to you which I hope you shall approve. I have &c.

(Signed) D. S. FOURIE, Fieldcornet.

To J. Baird, Esqre., Deputy Landdrost.

[Enclosure 12.]

TARKA, 30th April 1822.

Reports on the 20th Instant the patrol has found the plundering Bosjesmen, among whom were 8 Hottentots, four were killed and four made prisoners. 25 women and children were also taken. Of the prisoners I have sent one back to tell them once more that they are pursued only on account of their robberies and murders, and that if they will leave off doing so, never any harm will be done to them. Of the Hottentot prisoners one died on the road. I send you the men together with 6 horses, 9 oxen, and among the horses there is one belonging to A. Opperman, which had been taken together with 22 others. The 9 oxen are part of 51. The body of the deceased Hottentot I caused to be examined by two witnesses.

You will receive the report of the Inquest. The names of the Hottentots are Knevel, Jan, and Esau. Those who have conducted the prisoners on the road are best able to give an account how the creature died. I have received the body dead. Your servant and friend,

(Signed) S. J. VAN WYK, Fieldcornet.

To W. W. Harding, Esqre., Deputy Landdrost.

P.S. The female prisoners and children are so distributed that they can subsist without stealing.

[Enclosure 13.]

NIEUWVELD, 16th April 1822.

Now I report to you Sir I returned home from the pursuit of the Bosjesmen respecting whom I have reported on the 5th instant. I went with the commando to the kraal to try whether I could not make peace with them, but before I reached the kraal they shot with poisoned arrows at us, and wounded a Hottentot who was with me. I therefore ordered them to be fired upon, and I do not doubt but that many of them were killed. I could not count the number of dead, as it was a dangerous cavern where they kept themselves and there were many of them armed. I have taken 19 females and children. I left three of the females in the kraal to tell their husbands to come out and to make peace. Those females said that their husbands are captains, and that they had gone with a commando of twenty men to the Fieldcornetcy of Vorster to fetch cattle and sheep. Sixteen of the females I have divided among the people who were with me.

I have found in the kraal the following property which had been taken from the Inhabitants: 6 iron pots, 1 stirrup, 1 snaffle, some new handkerchiefs not hemmed torn to pieces, 30 musket balls, 2 shot bags with shot, 1 tobacco box with an earring, one waist buckle, 2 hat buckles with black ribbon, 5 iron spoons, 4 steel forks, 3 razors, two broken one whole, part of a spyglass, two keys tied together, a new ball mould, a whetstone, 1 pair of scissors, 1 plate of a gun lock, a copper

dubbeltje, 1 steel buckle, 2 powder horns with some powder, 1 knife broken in two, 3 small shambucks. The above is all I have brought away, and I have told Mynhard to come to me to see whether any of these articles belong to him. I am &c.

(Signed) J. D. JACOBS, Provisional Fieldcornet.

To J. Baird, Esqre., Deputy Landdrost.

[Enclosure 14.]

TARKA, 30 May 1822.

GOOD FRIEND,—This is to report that I have made a patrol in search of the oxen that have been stolen from P. J. Jordaan to the kraal of Wildschut and Lustig, where I found the said oxen dead. I have taken prisoners great and small all who were in the kraal, in number 15. I send you the two Bosjesmen Wildschut and Lustig. I am &c.

(Signed) J. H. STEENKAMP, Provisional Fieldcornet.

To the Fieldcornet S. J. van Wyk.

[Enclosure 15.]

BAVIAANS RIVER, 7th October 1822.

SIR,—I hereby report that I have taken the liberty to order a patrol of nine men on account of the cruel conduct of the Bosjesmen respecting my cattle. These 9 persons have been out 3 days, and on the 4th day the 7th instant they met 2 Bosjesmen, and found that probably these are the Bosjesmen who have done all the mischief, for the head of one ox and the legs of the oxen have been found in their possession, and one of the Bosjesmen has been killed and another severely wounded with break of day, it must have been done on account of the cavern. I am &c.

(Signed) C. J. VAN DER NEST, Fieldcornet.

To W. W. Harding, Esqre., Deputy Landdrost.

[Enclosure 16.]

NIEUWVELD, 11th January 1823.

I report that the Bosjesmen came to me on the 10th of January where I was with my cattle, because it was too dry at home. I therefore followed them immediately, and found the kraal on the Bekrivers mountain, there were 30 of my goats and 20 sheep and goats of J. Pretorius which they had stolen, whereupon I shot five of them, but the greater number had fled. The robbers had only two canteens in the kraal which I have found and cloth clothes of Wynand Bezuidenhout whose house they had broken open, and five handkerchiefs and a pot and its cover but much broken. Your friend,

(Signed) D. J. VORSTER, Fieldcornet.

To the Deputy Landdrost at Beaufort.

[Enclosure 17.]

TARKA, 12th February 1823.

GOOD FRIEND,—This is to report to you that I have made a patrol according to the report I have made, I have found the Bosjesmen kraal on the edge of the Winterberg. I have surrounded the kraal, when the Bosjesmen began to shoot with arrows on the people. I then ordered to fire upon them, because I could not get at the horses, they were fastened to the bushes near the kraal, none of the Bosjesmen hurt, but one of the horses found in the kraal has fallen from the steep mountain and was killed. The number of Bosjesmen taken in the kraal is nine. I must also mention that the Bosjesmen declare that five Hottentots from Cafferland have been with them in their kraal. The Hottentots had stolen a number of horses from the Baviaans river, and when they came to the kraal with the horses the Hottentots fled with the horses to Konap and three of the stolen horses they have left with the Bosjesmen, one of them they had slaughtered. I must also mention to you that they are the Bosjesmen of Albert Venter. I have left them again with Venter. I am &c.

(Signed) J. H. STEENKAMP, Provisional Fieldcornet.

To the Fieldcornet S. J. van Wyk.

[Enclosure 18.]

TARKA, 3rd April 1823.

I hereby let you know that with my patrol I have found the Bosjesmen kraal, but that they were in a position that it was impossible to get them out. They told me that they would not come out, for that they have done too much mischief. When I approached they shot at me, but I could not see any more than one. His arm was shot off. I have used every means to get at them. The people wanted ammunition. In the kraal were 20 horses dead. I have brought away 15 horses and 102 sheep and 6 oxen were also dead in the kraal.

Your friend,

(Signed) M. H. OTTO KRUGEL, Provisional Fieldcornet.

To the Fieldcornet S. J. van Wyk.

[Enclosure 19.]

BRAK RIVER, the 30th November 1823.

LANDDROST,—I hereby report to you that on the 6th instant I have sent out spies. They met 3 Bosjesmen with 80 sheep, which they took from them. One Bosjesman they have shot, and taken the two others prisoners. They are called Lumaket and Flukt. The Bosjesmen had taken 200 sheep, there are therefore 120 still missing.

On the 12th instant I sent a patrol in pursuit of the Bosjesmen who have stolen the sheep, but without finding them, only one Bosjesman they found with two horses, the patrol have shot the Bosjesman and taken the horses. I now came home. I found a Bosjesman kraal wherein were eleven saddle horses. The Bosjesmen had retired into a cavern where I could not get at them. They shot at me furiously with arrows and also with firearms. One man had a ball through his clothes. I have also fired upon them. Whether any have been killed I do not know. I had no more ammunition, and was therefore obliged to leave them, but I have brought one Bosjesman, two women and two children. I send you the Bosjesman called Slinger and the females. I have nothing to allege against them but that they

were at the kraal of the vagabonds, whether they have assisted in robbery I don't know. I send also the Bosjesmen who were taken with the sheep Fluk and Lumaket. The Bosjesmen had by them 3 kettles, 3 phials, 3 stirrups, 3 basons, 3 bottles, 3 forks, 1 spoon, 4 silver buckles, 8 calabashes, 1 snuff box, 1 basket, 2 keys, 1 picture, these articles belong to Wm. Henning according to the account given by the Bosjesmen, who say that during the night they had broken open the house and taken the property out of it.

Wm. Pretorius and C. van Tonder can give evidence against the abovementioned Bosjesmen. I am &c.

(Signed) A. PRETORIUS.

To W. W. Harding, Esqre., Deputy Landdrost.

[Enclosure 20.]

ACHTER SNEEUWBERG, 23rd January 1824.

I hereby report to you that I returned with the commando from the Bosjesmen country. I found their kraal, 48 of them we have brought out, and 4 were killed. There were in the kraal 2 firelocks, 12 horses, and 24 sheep and goats. Of the 52 Bushmen some have been sent to the trunk at Cradock, the remainder are distributed among humane and kindhearted people to be maintained. I am &c.

(Signed) A. MYBURGH, Fieldcornet.

To W. W. Harding, Esqre., Deputy Landdrost.

[Enclosure 21.]

10th January 1824.

This is to report to you that I have pursued and overtaken the Bosjesmen with the sheep of Van Vuuren. I called out to them to come to me, when one came. I said that they must all come, and that I would then do them no harm, upon which two more came, who said they would all come. We waited for them from ten o'clock in the morning till three in the afternoon. Then came one who said that the others would not come, because they were afraid. They then posted themselves on the four corners of a ridge. I then mounted to try

to take them prisoners. They shot at us, we shot two of them, and then called out again that they were to come to us. They shot again, and we shot again, but the evening closing in they hit one man. We don't know how many we killed. During the night we returned.

(Signed) P. VAN DER WALT, Provisional Fieldcornet.

To A. Stockenstrom, Esqre., Landdrost.

P.S. The sheep of Van Vuuren were stolen on the 3rd January.

[Enclosure 22.]

BRAKKE RIVER, 3rd April 1824.

I have to report to you that during the night six Bosjesmen have been in the kraals of W. J. Pelzer at the Stellenberg Spruit. They have killed one ox in the kraal, and carried off another. They were pursued. The people have killed some of them, two escaped.

(Signed) A. PRETORIUS, Fieldcornet.

To W. Mackay, Esqre., Landdrost.

[Enclosure 23.]

RIETFontein, 30th May 1825.

I have to mention the mischief done by the Bosjesmen between the 12th and 25th of May, at F. Venter 3 oxen, at Hendrik Venter 1 cow, at A. Venter 7 head of cattle, at H. Plessis 1 ox, at S. Plessis 9 head and 25 sheep of which 20 were recovered, at J. Ninaber 1 ox, at J. van der Merwe 1 ox. They were followed, but not overtaken, but on returning they found 3 oxen belonging to A. Venter. There were Bosjesmen with them. One ox was killed. They went thither, but the Bosjesmen ran up the mountain, and when the Bosjesmen saw that they gained upon them they began to shoot. The foremost man called out to them not to shoot, but they did not care for that, they continued shooting. One was killed, the other escaped in the mountain. They knew that I was not at home. It happened with the reading of the order for the Slaves, but on my return they immediately told me, and I went to examine it,

and found everything as it had been reported. I found the dead ox cut up, and the fire ready to roast it, also wood. I went into the mountains to look for the other cattle during three days, but did not find any. I found three kraals with nothing in them but hides and bones. I remain &c.

(Signed) P. VAN DER WALT, Fieldcornet.

To A. Stockenstrom, Esqre., Landdrost.

[Enclosure 24.]

ROGGEVELD, 7th February 1805.

SIR,—This is to inform you that the Bushmen have carried off 12 oxen belonging to my brother Jan Adriaan Nel, from his farm at Renoster River, and that I with three men rode after them to the kraal, where I found them. They killed all the cattle, and then they turned against me and wounded my horse under me. I shot one male Hottentot, the others fled.

I have &c.

(Signed) JACOBUS NEL, Fieldcornet.

The Landdrost of Tulbagh.

[Enclosure 25.]

Extract of a letter from the Fieldcornet J. S. Olivier to the Landdrost of Tulbagh, dated 18th February 1805.

“I have received information from the country that the Bosjesmen have taken away the sheep of Ockert Brits, and the commando has been unable to overtake them.”

[Enclosure 26.]

ROGGEVELD, 20th August 1805.

SIR,—This is to inform you that at the period during which I was with you in the middle Roggeveld the Bushmen murdered two old Hottentots of Father Nel, and on the same night stole 8 oxen from Isaac Davel, and on my return home I levied a commando, but as they were unfortunately aware of my proceedings they escaped to the mountains and caves, so that

I did not take any of them. About the same time the Bushmen committed robberies at the places of Christopher van Wyk and Pieter van Zyl, when the latter persons killed two of them. I have to request to be furnished with 50 pounds of gunpowder and 100 pounds shot, with 100 flints, to be delivered to C. van Wyk. I intend proceeding on a commando on the 10th or 11th September, and I beg that you will write to the Fieldcornets of the middle and little Bokkeveld desiring them also to go out on commando at that time, or we shall do no good with the plunderers. I have &c.

(Signed) JACOBUS NEL, Fieldcornet.

H. van de Graaff, Esqre., Landdrost of Tulbagh.

[Enclosure 27.]

ZAK RIVER, 8th October 1805.

SIR,—I received information by the Bushmen Ruyter and Prins, that a herd of cattle which the captain Goedhart had stolen and driven away had been traced to his kraal, whereupon I immediately started with a commando on the 5th. On the 6th the Bushmen passed the Boundary and murdered Christiaan Koopman in a most barbarous manner, 43 arrows were found in his body, together with some wounds from an assagai, and his head had been dashed to pieces with stones. I was informed of this circumstance on the 7th October. On hearing that the Bushmen were in the Nieuwveld, we were fearful of proceeding farther lest they should ravage the places behind us, as all the male inhabitants were on the commando. We therefore turned back and followed the footmarks. They were also aware of us, so that we could not fall in with them. The Bushmen Ruyter and Prins have promised to take me to Goedhart's kraal, so that I have to request you will as early as possible provide me with assistance to destroy the kraal. My force is not sufficient. On this commando I could only muster 3 Christians and 9 Bastards and Hottentots.

Your Humble Servant,

(Signed) J. S. OLIVIER, Fieldcornet.

H. van de Graaff, Esqre., Landdrost of Tulbagh.

[Enclosure 28.]

Extract of a letter from the Fieldcornet J. C. van der Westhuizen, Namaqualand, to the Landdrost of Tulbagh, dated 7th October 1805.

“ I have the honor to inform you that during my journey to you and return the Bushmen at Hermanus Engelbrecht's place killed two Hottentots and drove away or destroyed 4 horses, 5 oxen, and 37 sheep. On which I ordered out a commando to pursue and attack these plunderers. I have been so far fortunate as to overcome one kraal, in which 23 Bushmen were killed, and should have attacked more kraals which have done injury in the neighbourhood had the commando not been necessitated to return from want of powder and shot.”

[Enclosure 29.]

ZAK RIVER, 1st December 1805.

On the 6th November being at Mr. Kicherer's, Zak River, I was informed by two Bastards whom Mr. Kicherer had sent to Cape Town to fetch 200 sheep which he had purchased from H. van Aswegen, that the Bushmen had attacked them in the night, taken away all the sheep, and wounded them (the Bastards) with arrows. Upon which I called out a commando, and followed the traces as far as Blomfontein's River. At sunset I found the track of a herd of cattle which the Bushmen had driven there the same evening, and I sent five men to follow the track of the sheep, while I took seven men on horseback along the track of the cattle. The same night we overtook the Bushmen beyond the great Zak River, took from them 116 oxen, and shot three of their party. 14 Bushmen were with the cattle. Thence we pursued the track of the sheep up to the kraal, which we attacked in the morning, six Bushmen being killed and three seriously wounded. Of the sheep I could obtain none alive. Six of the peacemaking Bushmen accompanied me on the commando, two behaved

very faithfully. One half of the cattle found in the kraal I have according to custom divided among the persons who were on the commando.

(Signed) J. S. OLIVIER, Fieldcornet.

H. van de Graaff, Esqre., Landdrost of Tulbagh.

[Enclosure 30.]

Extract of a letter from the Fieldcornet Snyman, of middle Roggeveld, to the Landdrost of Tulbagh, dated 31st of December 1805.

“ I beg to inform you that the Bushmen have killed about 200 sheep belonging to the widow F. Visser, and her servants shot one of the party. I followed their footsteps with a commando, but could not follow up the track in consequence of the stones and mountains over which they must have passed.”

[Enclosure 31.]

Extract of a letter from the Fieldcornet Snyman, of middle Roggeveld, to the Landdrost of Tulbagh, dated 20th of March 1806.

“ This is to acquaint you that the Bushmen have stolen and carried away 280 sheep from Gerrit van Wyk. I followed their track with some others, but it was soon lost among the stones and mountains, and being unable to recover it we returned home. A Hottentot woman also was murdered on the 12th instant. The sheep were stolen on the 19th.”

[Enclosure 32.]

NIEUWVELD, 3rd November 1806.

SIR,—On the 29th October the Bushmen carried off and killed many oxen and sheep belonging to Jacob Kruger. 3 People were wounded by arrows, but we have recovered the cattle. In the evening of 1st November the Bushmen attacked old Gert Koetzee, and wounded 4 people with arrows, carrying off 200 sheep and goats. On the following day I raised a commando with which I overtook them on the Steenkamps

Berg. They fired upon us with three fowling pieces, and we rushed upon them, when they killed all the sheep and goats which they had stolen from Koetzee. We continued to follow their traces, but our force was insufficient to pursue them any further. As I find it impossible to abide here any longer, I have tendered my resignation, and intend to remove to the Nieuwveld in January next. I have &c.

(Signed) J. S. OLIVIER.

H. van de Graaff, Esqre., Landdrost of Tulbagh.

[Enclosure 33.]

12th February 1807.

SIR,—I have to inform you that the Bushmen on the 8th instant murdered two Christians named C. P. Snyders and F. J. Snyders. It took place among the cattle at the farm of C. T. Snyman. The Bushmen drove away 40 oxen, but two days afterwards they were recovered by four peaceable Bushmen before the commando which I sent out had arrived at the spot.

I have &c.

(Signed) GERRIT SNYMAN.

H. van de Graaff, Esqre., Landdrost of Tulbagh.

[Enclosure 34.]

HANTAM, 3rd May 1807.

SIR,—I beg to inform you that on the 5th April the Bushmen carried off 338 sheep belonging to David Straus and murdered the shepherd, and on the 7th April they murdered a slave boy and killed 4 horses belonging to J. G. van Reenen and 5 to Jurgen Reygen. The track of the sheep was followed, but from rain having fallen could not be continued. On being furnished with powder and shot, and when the cattle have recovered from the weak state to which the late drought has reduced them, I shall be enabled to pursue the murderers with a commando. I have &c.

(Signed) J. A. VAN WYK, Fieldcornet.

H. van de Graaff, Esqre., Landdrost of Tulbagh.

[Enclosure 35.]

CAROO, 9 July 1807.

SIR,—This is to inform you that the Bushmen on the evening of the 7th of June fell upon the cattle of Botes van der Westhuisen at his farm the Brandwagt. They fired upon the shepherds with two fowling pieces, but killed only two sheep, which they took away by force. I ordered some men out upon this occasion to pursue the Bushmen, but in consequence of the measles raging at the time, I could only procure three Hottentots in the service of Frans Maritz. At Albert Smit's all were perfectly healthy. Here were four white men, namely Albert Smit himself, his two sons, and his brother-in-law, who could shoot well, besides two Hottentots. I required one of his sons to join us, but Albert Smit would not allow him. In the month of February last he behaved exactly similar towards Gerrit Snyman, when the latter applied for his son to go on the commando in pursuit of the murderers of Frederik and Casper Snyders.

If applications of this kind be rejected, the Bushmen will gain the superiority over us. For had I on the present occasion been able to procure the assistance I wanted, I would have pursued the Bushmen and driven them out of the country, but as I was not sufficiently supported, I was obliged to return with the three Hottentots, and in the meanwhile the Bushmen took away three draft oxen, which however afterwards escaped from them. I pursued them with two men in the service of Gerrit Snyman, Lourens, Jacobs, and Snyman, and two Hottentots in my employ. We followed their track until rain coming on prevented our pursuit, and we were therefore obliged to return. Albert Smit took up his resting place with his cattle between the place of Gerrit Visser and Floris Visser, where he remained four days, and when I told him he might go home he began to quarrel with me.

In this manner does he conduct himself invariably, following his own inclination. I hope that you will take vigorous measures for bringing him to a sense of his duty. I have &c.

(Signed) GERRIT MARITZ, Fieldcornet.

H. van de Graaff, Esqre., Landdrost of Tulbagh.

[Enclosure 36.]

NAMAQUALAND, 25th March 1811.

SIR,—In consequence of your order I have ordered 40 Baptized and unbaptized Bastards under the command of Cornelis Kok to be ready at his place on the 8th of this month March to fetch the missionaries, all but eight were willing. Kok moved forward on the 9th of this month to fetch the missionaries. When he had advanced four stations he met two Bastards called Piet Engelbrecht and Cupido Joseph, who stated that the missionaries had on account of the drought gone four stations inland from the Warm Bath, as rain had fallen there, and when their cattle shall have grown, they will then let me know to fetch them, which I shall not do without receiving further orders from you, whether I am to do so, for the missionaries have occasioned the great trouble and occasioned considerable expense to the District for nothing, and when Kok received the message by the two Bastards he returned. I have now received information that Africaander will come hither to destroy my District first, and then drive all the Christians farther in towards the Cape; and I have sent him word in return that he could come. I therefore kindly request to let me have some powder and lead, for the men have but little if it should happen. I remain &c.

(Signed) A. P. VAN NIEKERK, Fieldcornet.

J. H. Fischer, Esqre., Deputy Landdrost.

[Enclosure 37.]

This day the 20th October 1811 the Fieldcornet A. P. van Niekerk came here and brought his report of what the said Van Niekerk knew to exist.

On the 15th August having moved in with my commando, according to information which I received from the missionary and his people, which I found the contrary, for that they had agreed that they would point out to me where the kraal of Africaander was; when I came they could not say anything as to four months back what had become of Africaander, upon

which I immediately sent out spies of the people belonging to the missionary, who are acquainted with the country, in order to find out the kraal, they returned to me after eight days and informed me that they had found the kraal of Africaander at the Kabis and that Africaander was established there very tranquilly, upon which I made forced marches for two days and two nights in order to come upon the kraal, but when I came there I found to have been deceived, Africaander had not been there for the last year past, finding myself deceived by the people belonging to the missionary I then asked them where may the said Africaander now be ? to which they replied at a spring the Hevige Beest. I then again immediately sent out spies, ten men, among whom four of my own trusty people. They brought me word on the fifth day that the said Africaander had been stationed there, but had left it a fortnight before. But I then had no more provisions to be able to follow Africaander farther. I asked the people of that country for provisions, which they refused. I was then obliged to return. I caused three camels to be shot there and other game for the use of my men, being in great want.

(Signed) A. VAN NIEKERK, Fieldcornet.

As witness :

(Signed) HERMANUS VAN NIEKERK.

[Enclosure 38.]

BOKKEVELD, 21st June 1812.

SIR,—I have ordered a small commando to go after the vagabond Hottentots who have murdered the shepherd of H. Vleck and carried off 24 sheep. The commando kept upon the track of the vagabonds till they caught them, and would have made them prisoners but they would not suffer themselves to be taken. They then shot two of them dead, and two escaped. They have hitherto not been perceived here, and since that time they have done no more mischief. They must have gone to another part of the country.

Your obedient Servant,

(Signed) J. Louw, Fieldcornet.

J. H. Fischer, Esqre.

[Enclosure 39.]

HANTAM, 13th November 1812.

SIR,—I regret that I cannot follow your orders respecting the effects of the commando, and I hope you will excuse me in this case because, Sir, it was reported to me on the 11th instant by Pieter Gous that the two Hottentots of Jurie Rechard and one of Gideon Russouw had murdered the overseer of Russouw called Thomas de Seller, and they have also stolen all the firearms and the powder and lead of the same, as I and the men I had ordered with me have found it to be the case, as also by the examination of other Hottentots, who declared that they are busy in persuading others to revolt, and also the Boschesmen. I respectfully expect therefore, Sir, that you will assist me, as I cannot rely on the other Hottentots who are in my service, and whose assistance I want. I shall therefore, Sir, expect your answer. I remain &c.

(Signed) C. A. VAN DER MERWE, Fieldcornet.

O. M. Bergh, Esqre., Deputy Landdrost.

[Enclosure 40.]

BOKKEVELD, 15th November 1812.

SIR,—The Fieldcornet C. A. van der Merwe has asked me for assistance, he writes to me that the overseer of Rossouw has been murdered by the vagabonds upon the place of the said Rossouw, and all the firearms, powder, and lead the vagabonds have carried with them, and the said Cornet writes me that the gang are busy in forming plots to run down the district. I shall set off therefore this moment to meet the vagabonds, but I do not know Sir how it will end.

Your obedient Servant,

(Signed) J. LOUW, Fieldcornet.

O. M. Bergh, Esqre., Deputy Landdrost.

[Enclosure 41.]

HANTAM, 20th November 1812.

SIR,—The utmost necessity compels me to inform you of the miserable state of my district and respectfully to solicit you if it were possible to exempt my district from contributing to the commando, for it is almost entirely impossible to furnish any assistance to it, for the murderers are gone with three firelocks, powder, and lead to the Great river, in order to assemble a strong gang for the purpose as they say themselves to run down my district at the end of this month or the beginning of the next, and to murder and disperse as many as they can. They are busy in driving away the Bosjesmen by saying that the Englishman comes to take them. I have met two kraals who on that account had betaken themselves to flight. I have as much as it was in my power endeavoured to tranquillize them. The vagabonds have also said that the people of the Hantam, Bokkeveld, and Roggeveld were apprised of their intention and would join them, so that it is impossible for me to furnish a single man whether as leader or as driver, for I rather want twenty men more to defend the outpost than I am able to spare one, and I doubt not but there is some truth in what they said that there are more people in my district who are apprised of their intentions, though I am not certain of it, it was mentioned to me in a letter. I request therefore your consideration on the subject, and your assistance to relieve this district from the Commando, the urgent situation of the district requires it. I doubt not therefore that I shall obtain a leader or driver thither, for the talk among the blacks is that they will run away, from which I anticipate still greater danger. Respecting the returns of Hottentots and Bastards, I have to state that I was busy about it, but owing to the present circumstances I have been obliged to leave off, and I do not know when I shall be able to let you have it.

I must also inform you that I have been in pursuit of the murderers with 12 men, and that I have overtaken them. We have fired on each other, but I could not secure them, owing to the advantage they had of the ground and bushes, holes

and ditches where they could conceal themselves. I could therefore not prevent their progress to the Great river.

Your obedient Servant,

(Signed) C. A. VAN DER MERWE, Fieldcornet.

O. M. Bergh, Esqre., Deputy Landdrost.

[Enclosure 42.]

TYGERHOEK, 4th December 1812.

SIR,—I have to inform you that the three vagabonds called Roman, Piet Kaffer, and Klaas Titus, when I went this day on my second commando in pursuit of them, owing to the faithfulness and good conduct of some of the Boschjesmen and of a Bastard Willem Dunburg, who behaved most exemplarily, have fallen into my hands. I send you two of them, Piet Kaffer and Klaas Titus. Roman has been shot by his comrade Piet Kaffer, who was artfully persuaded by the said Dunburg, whom I had despatched for that purpose, to do so, because I could do nothing to it with my Commando, owing to the inconvenience of the situation. By examining the vagabonds you will become further acquainted with their bad intentions, and what their object was, and what they intended, for they will confirm in many respects my former letter which I have transmitted to you.

Your obedient Servant,

(Signed) C. A. VAN DER MERWE, Fieldcornet.

O. M. Bergh, Esqre., Deputy Landdrost.

[Enclosure 43.]

GROENE RIVER, 29th March 1814.

SIR,—I as provisional Fieldcornet appointed by my Fieldcornet Johannes Louw, J. G. son, it was communicated to me by J. Twaits, residing in Namaqualand on the 25th March that his people intended to murder him, they had put him under and intended to beat him to death, and shoot him,

among whom are his great Hottentots called Piet Willem, and Jager Pentz, and Jantje Willems, and three grown up young Hottentots, among whom was also one of Theunis Kotze, who had run away from him, called Dunburg. They have fled to the vicinity of the Bokkeveld. And then I have acted according to my instructions received from my Fieldcornet, that I was to ward off and cause to be warded off all mischief. I therefore ordered out four men, and I have pursued them, and endeavoured as much as it was in my power to secure them. I have taken three, Piet Willems, Jager Pentz, and Jantje Willems. They had one gun by them. One called Dunburg had run away from them before we came to them, he was after us again in the Bokkeveld, and now he is gone to the Hantam as we can perceive by the track. I returned home on the evening of the 29th, and the next day the 30th sent again two Christians and two Bastards to trace him, and I shall remain with these three till the people come home, for I doubt not but he will be taken. One of these three, Jager Pentz, declares that there are more accomplices, he has mentioned their names, Jan Plaat, Jantje Schaapwachter, Klein Willem Dam, Jantje Knop and his father de oude Jager living with Isaac Swart, and the other four are of Floris Kotze. I therefore kindly request how to conduct myself therein.

Your obedient Servant,

(Signed) H. C. NIEUWOUDT, Provisional Fieldcornet.

O. M. Bergh, Esqre., Deputy Landdrost.

[Enclosure 44.]

BOKKEVELD, 27th May 1817.

SIR,—In answer to your letter of the 9th May I have to state that I ordered a commando of eight men to follow the vagabonds and to take them prisoners, four Christians and four Hottentots. In this expedition no more than one of the vagabonds was discovered, namely Klaas Keyzer, which Klaas Keyzer I had surrounded on all sides, thinking that there were some other vagabonds with him, but I discovered no more than Klaas Keyzer alone, and there was no appearance that more had been with him. I caused his lodgings, wherein he had

retired, and which he had arranged for himself underground, to be broken open, in order to take him. He had only by him two quivers with arrows, not poisoned, but no bow.

I remain &c.,

(Signed) D. J. LOUW, Provisional Fieldcornet.

O. M. Bergh, Esqre., Deputy Landdrost.

[Enclosure 45.]

BOKKEVELD, 20th July 1819.

SIR,--I have to inform you that we at the call of the Field Commandant Jan Nel with the Fieldcornets have immediately ordered a commando and accompanied the said Nel to the Zak river in search of the runaway Bastards. We have searched from kraal to kraal without discovering anything of them or that they had carried away any of their cattle and goods; but we understood from some of the Bastards there that they were seen in a wood Jesman's kraal, in the same direction as their kraals. We met also the Caffer captain Danzer, who was there already, as he said, flying from the commando, because he had been told by some Bastards who are in the Boschjesmen's kraals that a commando was coming to shoot them, but we have settled everything with the Caffer, with which he was well pleased, and in order to prevent consequence we thought it advisable to tell to the Bastards residing there that if we had to give them advice it would be to tell the runaways that they should of their own accord come to the Provisional Fieldcornet Nel or to the Fieldcornet C. van der Merwe, or to me, and that we would speak on their behalf, because that they had always been faithful. But I must however state to you, Sir, that this appears strange to us, because that of the runaway Bastards there are Fathers, Brothers, Sisters, &c., and that they are all linked together, so that we cannot make it out clearly, and we did not dare venture farther with our Commando, fearing that we should drive the savage nations farther away. We thought it best therefore to leave it so for this time, and at the first summons of the Provisional Field Commandant Nel to make another

commando, which is quite ready. I doubt not but you will be satisfied. Your obedient Servant,

(Signed) H. C. NIEUWOUDT, Provisional Fieldcornet.

O. M. Bergh, Esqre., Deputy Landdrost, Clanwilliam.

[Enclosure 46.]

HANTAM, 1st June 1821.

SIR,— I have the honor to report to you respecting the result of the commando which I sent out on the 25th of May last, in order to retake the cattle which the Boschjesmen had stolen from Hendrik Visagie, as I have mentioned to you, but I have not succeeded in my object, because that they had already removed the stolen cattle, and that the commando could not overtake them, and principally because that owing to the drought the horses of the inhabitants of my district are too much out of condition to undertake so distant an expedition. Nevertheless the commando have met during this journey some of the peacemaking Boschjesmen, who say that some cattle have been stolen by the people belonging to the Boschjesman captain Riman, who told the peacemaking Boschjesmen that they would not leave off stealing, but continue their old practice to rob and murder, and whereas this may occasion much mischief and devastation to the Inhabitants residing on the frontier, in case a timely stop were not put to it, I have sent to some of the peacemaking Boschjesmen to come to me, which they have done, when I proposed to them to persuade the said Riman to come to me, in order to represent to him his misconduct, and, by means of making him a present of some Cattle, to induce him to make peace, which the peacemakers there also promised to perform, but hitherto I do not know what the result will be, the peacemakers not having as yet returned, but as soon as I shall be informed of it I shall make you acquainted therewith. But should Riman not be persuaded, then it would appear to me most advisable to prevail on the Caffer Captain to deliver him up into our hands, and I doubt not but the Caffer will assist us for that purpose. And when said Riman shall have been brought to a sense of his duty, I make no doubt but all will be tranquil again. I have

also to state that the people belonging to said Riman have stolen some sheep from the Burgher Jacobus Spannenberg, which they have taken to the kraal of said Riman.

Expecting speedily to receive your orders how I must conduct myself, I remain &c.

(Signed) C. A. VAN DER MERWE, Fieldcornet.

O. M. Bergh, Esqre., Deputy Landdrost.

[Enclosure 47.]

WELBEDAGT, 3rd August 1821.

SIR,—This is to acquaint you in the information received by me from Johannes Nicolaas Swart that the Boschjesmen had stolen and driven away from his place Slingerfontein. I have ordered a commando to go in pursuit of them, and before our departure we were again informed by Swart that it was not necessary, as he had followed them immediately and had taken the stolen cattle from them. I therefore dismissed the commando. During the pursuit of the robbers the Boschjesmen have killed five of the oxen. I must also state to you that I have been under the necessity to dismiss the commando, their number not being sufficient, owing to some having remained behind who had refused to obey my orders. I have &c.

(Signed) C. A. VAN DER MERWE, Fieldcornet.

O. M. Bergh, Esqre., Deputy Landdrost, Clanwilliam.

[Enclosure 48.]

HANTAM, 23rd March 1822.

SIR,—I have to report to you that on the 2nd Instant the Boschjesmen have stolen 230 sheep from Frans Dasilva, and on the 16th 33 head of cattle, and from J. N. Swart on the 27th also upwards of 30 head of cattle, all within the frontier. I was obliged therefore to order a commando to pursue the Boschjesmen. I herewith send the report of the provisional Fieldcornet J. P. Gous, from which you will see what said Gous states to me. I am therefore compelled to complain to you of those who have been unwilling, namely the following persons : Abel Petrus Louw, Jan M. Rychert, Elias L. Camfer

refused to furnish a Bastard, Andries Liebenberg two horses, Johannes A. van Wyk, Hendrik van Zyl.

Sir I request you to assist me with powder and lead, for the use of the commando. I am &c.

(Signed) C. A. VAN DER MERWE, Fieldcornet.

W. Synnot, Esqre., Deputy Landdrost, Clanwilliam.

[Enclosure 49.]

WELBEDAGT, 6th April 1822.

SIR,—You will receive the report respecting the result of the commando against the plundering Boschjesmen on Saturday 30th March, under the command of the Burgher J. P. Gous, to whom I was obliged to entrust the commando owing to the bad state of my health.

After the spies sent out by us had discovered the track of the robbers, and in what direction they had gone with the stolen cattle, it was determined to follow them without delay, and to retake what they had stolen ; but in vain, for they had already killed it. Their kraal was discovered during the night, and attacked the next morning with the intention to retake what they had stolen, but as soon as they had discovered it they made a sally on us and shot furiously with arrows, so that the Commandant was compelled to resist force with force, which obliged them to retreat in a hurry, their advantageous position caused by a thick wood prevented their being pursued, and their incessant shooting forced our small commando to fall back and to look for a safe retreat where to await a second attack. From thence a heavy fire was kept up against the kraals, whereby their intended second attack was prevented, and they ceased shooting. Our party then also ceased firing, whereupon the Commandant determined to send the Interpreter to propose terms of peace to them, who called out to them that the commando had not come to shed their blood, but merely to require the restitution of the stolen property, and then to return in peace ; but however kindly the proposal was made they did not even return an answer to it, so that the Commandant was obliged, owing to the small force he had by him consisting only of twelve men, to retire without daring to make any further attempt against them, and without

knowing what number of them had been killed or wounded. Their force was too great compared with ours to attempt to penetrate into the woods, and there the matter was left to rest. They were once more called to that if in future they would be quiet and keep at peace we on our part would not undertake anything against them, and that then we should remain at peace with each other, but we received no answer. Of the cattle stolen, consisting of sixty head, we did not recover a single one. The last ox was even during the fight killed by them with arrows. The result of our expedition might have turned out more advantageously had all under my command obeyed the summons to join the commando. I am under the necessity therefore to represent their conduct to you, and to leave to you to decide thereon, so that the recurrence of it in future may be prevented. I have already transmitted a list of their names to you in my foregoing report. I am &c.

(Signed) C. A. VAN DER MERWE, Fieldcornet.

W. Synnot, Esqre., Deputy Landdrost, Clanwilliam.

[Enclosure 50.]

LANDDROST'S OFFICE, STELLENBOSCH, *January 23rd 1827.*

HON. SIR,—With reference to your letter of the 1st ultimo, I have the honor to enclose herewith the required copies of the Reports made by the Fieldcornets who were employed on the commandos referred to in the returns transmitted by me on the 17th July 1824. I have &c.

(Signed) D. J. VAN RYNEVELD, Landdrost.

The Hon. Sir R. Plasket, Secretary to Government.

[Enclosure 51.]

To Ryno Johannes van der Riet, Esqre., Landdrost and Merchant of Stellenbosch.

SIR,—I have herewith to report to you that the Bosjesmen Hottentots have stolen fifty head of cattle from Willem Adriaan Nel, Johannes Pals Carsten, besides a number that have been killed, that they were pursued and the rest of the cattle have been retaken, and seven of their girls and children shot, but

the Hottentots perceiving us whilst in search of them in the night time that we unknowingly too nearly approached them, fled in the dark. After we came home, and again in the course of four or five days afterwards stole 51 head of cattle from Jan Straus and Christiaan Keyser. They murdered the herdsman, and took away his gun. They were pursued, but as they drove off the cattle in four or five directions, we could not (our horses being much fatigued) take more than 13 alive, the wounded were certainly twice the number of the dead, and now more must be dead. Where they were in an immense wood, that if we had had no shield we could not have entered in without danger, since whilst I was in search of them I received two darts, one upon my belt, another upon my shoulder. God be thanked, neither of them wounded me, for when the first rebounded against my belt I shot the Hottentot in the body that he had not strength enough to throw the several darts through my clothes. The Hottentots under my charge have taken thirty head of cattle from Gerrit Visagie, and were pursued by the Field Corporal Jan van Dyk, but were not overtaken.

I beg Sir that you will give to the bearers hereof the papers which you were to have sent to me to Cape Town relative to the resting places of Bok and Ras's cattle, on account of that which you forbid me, having proved to you that Bok and Ras were more in the wrong in what related thereunto than I was, and it was not taken amiss of them or forbidden them, and once more beg that you will most earnestly put a stop to it, as they make use of the said places to this day, and that you will also lay a punishment upon every one who makes use of places beyond the limits of his Ordonnantie (the central point of a loan place). Please send such orders and papers to me that I may show to them that every one is obliged to keep within his Ordonnantie and not to make use of ground beyond its limits, as the conduct alluded to has annoyed me for some time. I am plagued and suffer injury by it, and besides which that such infamous people should complain of me. Trusting that you will deliver the said papers to my brother in law Adriaan Louw, I have &c.

(Signed) J. G. LOUW, Junior.

10th June 1797.

[Enclosure 52.]

19th May 1798.

To Ryno Johannes van der Riet, Esqre., Landdrost and Merchant of Stellenbosch and Drakenstein.

SIR,—This serves to inform you that the Bosjesmen Hottentots have killed four of the cattle of Abel Jacobus Pienaar, but taken away none. I have not yet received any certain intelligence from the Field Corporal Jan van Wyk whether any of the said Bosjesmen have been shot, but I shall forward the same to you as soon as I have obtained it. I am &c.

(Signed) J. G. Louw.

[Enclosure 53.]

4th December 1798.

To Ryno Johannes van der Riet, Esqre., Landdrost of Stellenbosch, Drakenstein, and the jurisdiction thereof.

SIR,—You herewith receive the reports, the first relates to the distribution of the sheep to the Bosjesmen, with a list of the number received, and each of the Bosjesmen has signed for what was given to him, that you can thereby see who have not had or were unwilling to have any. The full number received have not been distributed, they having come at a time that several sheep died here of a distemper (*de geyle ziekte*) which prevailed amongst them on the road. Hitherto many perished, and whilst they were with me a part died, as also on their way to the Bosjesmen. I got no more than 19 Bosjesmen, who with the girls and children amount in the whole to 73. The others would not come, but I have despatched some people to call them, to prevail upon them to make peace. The Bosjesmen have also stolen 23 or 24 head of cattle from the Widow Gert Visagie since the conclusion of the peace, and threw in the night time more than a hundred darts at her house. Jan van Wyk went with a commando in pursuit of them, with which he set out on the 6th December for fourteen days. I am &c.

(Signed) J. G. Louw, Fieldcornet.

[Enclosure 54.]

2nd February 1799.

To Ryno Johannes van der Riet, Esqre., Landdrost of Stellenbosch and Drakenstein.

SIR,—This serves as a report of the commando which I despatched, but it did not succeed. The servant of Losper rode out on a certain day when the fugitives broke open his house and took away all his goods, and which according to the declaration of a little slave boy of said Losper was done by a couple of slaves. I thereupon sent a commando thither, but the offenders were not to be found, and it had scarcely returned when four head of cattle were stolen from Philip Botha, to which place I also sent one, that met with the people, but could neither take nor shoot them, for perceiving this commando they fled to the mountains, fired upon it, and made use of abusive language. It is reported that they are all Hottentots. Six of them were seen, two of the cattle were killed and two have been wounded. I now intend if they should be heard of again to set out in quest of them and to cause to be shot all such as will not surrender. I think they are vagrants who have been many years in the mountains. They have girls and children with them. I am &c.

(Signed) J. M. DE WET, Fieldcornet.

[Enclosure 55.]

BOKKEVELD, 4th August 1799.

To Ryno Johannes van der Riet, Esqre., and the Heemraden at Stellenbosch.

GENTLEMEN,—Your despatch of the 28th June I had the honor to receive in due time. The enclosed letter from the Fieldcornet Pieter Jacobs will convince you that I found myself under the necessity of lending him assistance, and show the reason for my not having been able to comply with your orders. We have been out fourteen days with a commando against the Bosjesmen. We saw three, but could not take them, for they hid themselves too closely amongst the stones.

I am &c.

(Signed) JACOBUS PIENAAR, Fieldcornet.

[Enclosure 56.]

Daily Journal kept by the Fieldcornet Johannes Abraham van Wyk.

The 19th August 1799 sent 12 spies from the thorns along the side of the Fish river to the valley, but nothing was discovered, and we thereupon also proceed to the valley.

The 20th sent away 12 spies, who found a Bosjesmen's kraal. They who belonged to it had fled, but wherein were three oxen that had been slaughtered, and three dead, being the oxen that were stolen from Christian Bok.

The 21st removed from the valley to the Fish river, sent away 7 spies to the Leeuwen Kuil, but nothing was discovered.

The 22nd sent the waggons to the place where the Zak and Fish rivers join, and returned with 37 men to the same kraal where we had found and left the dead oxen.

The 23rd. On the morning of this day we examined the kraal, when we discovered from a fire in it that the Hottentots were there again, and in which we found four and shot them, amongst them was Gert Eenbal, the principal robber, and where the Zak and Fish rivers join we found some tracks of cattle upon which the rain had fallen, and these marks went in a direction towards the Paardekloof Mountains. We also found an ox that had been slaughtered by the Bosjesmens, but could not go in pursuit of them because of the weakness of our horses.

The 24th proceeded to the place of Jan Hall Senior.

The 25th to the Rietfontein.

The 26th arrived at the Hantam, where 4 horses were disabled.

[Enclosure 57.]

Daily Journal of the Fieldcornet Jacobus Gideon Louw.

The 31st August 1799 departed from the Bokkeveld with the commando waggons and cattle for the Leeuwe Kuil, left the waggons there with the men belonging to the Cornet Daniel Lambrechts, and rode to the place of Johannes Straus, where the Cornet Johannes van Wyk had ordered the men to assemble.

The 2nd September waited at Johannes Straus for T. van Wyk, but received advice that he could not come.

The 3rd arrived at the place of Christian Kotzee, and received an account of some dissatisfactions being discovered amongst the people who were left with the waggons at the Leeuwe Kuil, when some men were sent thither to make the necessary inquiry. - 9 men were despatched as spies to the Nariusie, and 8 round the Gantums Mountain.

The 4th distributed gunpowder and shot, and proceeded to the Riet Valley, to the Cornets Daniel Lambrechts, J. G. Louw, and Ernst Wolfaart, rode with their men to the Bokkeveld to make their movements there and made an appointment to meet at the Catkops River.

The 5th remained at the Riet Valley. The 9 spies returned and had discovered nothing, but found a horse that had been disabled on the former commando. Sent 8 spies to the Terrouge, and Schalk Voster home on account of his having a cancer in his arm.

On the 6th proceeded to the Terrouge. The 8 spies who were sent round the Gantems Mountain returned, and had discovered nothing except five old tracks of cattle. Sent away 6 others as spies.

The 7th sent out 8 men as spies to the Kromme River. The 6 of yesterday returned, and found nothing except old tracks of cattle. Went from thence to Adriaan's Fontein.

The 8th sent 8 spies from Adriaan's Fontein to the saltpan. The 8 of yesterday returned, and stated that they had found new tracks of cattle that appeared to have been driven by two persons from the Bokkeveld in a direction towards the Lekkerroog. Departed with the commando to the Kleine Zoutpan, when an ox belonging to it was disabled. The 8 spies who had been sent out returned stating that they had met with new tracks of a number of cattle that appeared to be driven by two Hottentots in a line from the Bokkeveld, and had found on the road to the Kleine Zoutpan near to the water the footsteps of 3 Bosjesmen, and about a thousand paces from thence another, as also the tracks of the said cattle and of children to and from the water. A horse of Jacobus Smit disabled and left on the road.

The 9th 12 spies sent out in the direction of the before

mentioned track. Removed towards the Catkops river. At break of day discovered new tracks, and found a kraal in which were five head of cattle of two years old and two cows that had been slaughtered by the Bosjesmen belonging to it, all of whom had before made peace with the Fieldcornet Jacobus Gideon Louw, of which people 4 have been shot, 3 taken prisoners, and one escaped. The 12 spies returned, they had strayed in the night and discovered nothing. Sent 4 men to the kraal to wait to see if he who had escaped had returned, but they came in the evening and had seen nothing. A horse of Willem Berg was lost, and not yet found.

The 10th remained there, but nothing was discovered.

The 11th the Cornets J. Louw, Daniel Lambrechts, and Ernst Wolfaart arrived at the Catkops river and remained there.

The 12th remained. Sent two Cornets with 20 men to see if there was water to proceed further.

The 13th waited there. A slave boy of Christiaan Bok of the Bokkeveld arrived with a letter to the Cornet J. Louw, which stated that the Bosjesmen have taken away seven oxen from him said Bok and murdered his herdsman, as also that there was a combination of 9 Hottentots, and at the head of them young Jantje Hardkop, who intended to do harm in the Interior. The Fieldcornets returned that night, but in the distance of 8 hours on horseback could not find any water.

The 14th remained there. Sent 20 men to the Fish river to see if there was water. An ox belonging to the commando disabled.

The 15th waiting for information from the said men.

The 16th departed for the Zak river. The 20 men who had been sent in search of water returned. They found a kraal of which they shot three and wounded 2, and the burgher Albert van Wyk received a wound in the neck by a dart. 2 oxen were also wounded, and one disabled.

The 17th remained at the place. Dispatched 27 men in three divisions as spies along the side of the Zak river.

The 18th the 27 men returned, and had discovered nothing. The wounded horse died.

The 19th. Since all the men who were acquainted with the

road to the Great river unanimously declared that the Zak and Fish rivers not having overflowed their banks in two years there was no water the distance of three baiting places calculated at 12 and 14 hours each, and that the chief part of the horses and oxen could not proceed any farther without water. Most of the Cornets were of opinion that we could not proceed without being answerable for the men and cattle wilfully suffering the loss of their lives. The commando was therefore placed in two divisions. The Cornets J. Nel, Johannes van Wyk, Ernst Wolfaart, A. Mouton, Barend Lubbe, and Andries Burgers to go along the Fish and Zak rivers in search of the Bosjesmen ; and the Cornets J. Louw and Daniel Lambrechts to the Catkops river to trace out the tracks of cattle that were found before. The wounded men sent away with the waggon of Wolfaart.

On the morning of the 20th arrived at the Catkops river. Found eight new tracks of Bosjesmen and one of an ox with them that had the appearance of their having removed from thence that night or the day before, and coming from the Fish river it plainly appeared that they were the tracks of the Bosjesmen who remained at the kraal of whom three were shot and two wounded. The Cornet J. Louw set out in the evening with 34 men in search of it, but could not find the kraal that night and returned to the waggons.

On the morning of the 21st sent away 8 spies to see if they could discover anything, who returned in the afternoon with an account of having seen the track of a Bosjesman who had been near the waggon the preceding night. The Cornet J. Louw rode out again in the morning with 35 men in search of the kraal, and returned in the afternoon of the 22nd. Had been as far as the Klip river, where they found the kraal abandoned, and it appeared that it had been deserted about 8 days, from the rain that had fallen at that time being seen upon their footsteps, and that they had been warned of the commando by him who fled from the first kraal. Went from thence in the evening to the Kleine Zoutpan, but did not discover anything.

The 23rd departed from thence to the Roodeberg's Mountain. Dispatched 5 spies to the Sousie, but nothing was discovered. 2 horses disabled.

The 24th went from thence to the Kobuskaa, where the Bosjesman's girl who had been taken with her child escaped, and could not be found afterwards.

The 25th remained there.

The 26th to the Doorn river.

The 27th from the Doorn river to the Bokkeveld.

[Enclosure 58.]

1st September 1799.

To R. J. van der Riet, Landdrost of Stellenbosch.

SIR,—You herewith receive a report of my expedition in company with Jan Abraham van Wyk. In regard to my men they were all present except Gert van Wyk Junior, and with the reason of his absence I am unacquainted. We on the 14th August set out with the commando and reached Kanideme; on the 6th came to Kamis Kop, and on the 9th at Roggeberg, the 10th at the Saltpan, the 12th and 13th halted, on the 14th at the Doorns, the 15th at Fish river, the 16th halted, and on the 17th, 18th, and 19th, continued to halt, on the 20th proceeded to the grass valley, the 21st to the Bosjesmen kraal, the 22nd to the mouth of the Zak river, the 23rd returned to the kraal, the 24th to the place of Jan Nel, the 25th to that of Abel Pienaar, the 26th to the Doorns, and on the 27th at Bokkeveld. We could not pursue the horde of Africaaner on account of the severe drought. We found three Bosjesmen kraals, of which men we shot eleven and took three prisoners. One of my commando received a wound, and the horse upon which I sat, as also the one upon which Arnoldus Pienaar was sitting, was wounded.

I am &c.

(Signed) ERNST HENDRIK WOLFAART.

[Enclosure 59.]

BETJES FONTEIN, situated at the Bidouw,
1st September 1799.

To R. J. van der Riet, Landdrost, Stellenbosch.

SIR,—I left my place with the commando on the 28th and arrived at Matjesfontein in the Hantam on the 2nd July

where was chosen collectively to be the commandant Jacobus G. Louw. We departed from Matjesfontein on the 3rd of August for the Riet valley, went from thence to the Trange, afterwards to the Kromme river, and from the Kromme river to Lohfontein, after which we proceeded to the great saltpan, and from thence to the Catkops river, where we found a Bosjesmen's kraal in which were five head of stolen cattle. We shot four of the Bosjesmen and took three prisoners. One of the latter escaped. We dispatched some men in search of water, but they could not find any. The country was quite black from drought. We were then at the distance of five baiting places from the Great river, where it was supposed that Africaaner was with his barbarous horde, when by reason of the want of water we shaped our course to the Fish river, where we also sought for water, but found none, so that it was impossible for the commando to proceed any farther. We then went along the banks of the Fish river, where we found a Bosjesmen's kraal and shot three Bosjesmen. We continued our course to the distance of three baiting places, when we found another kraal in which seven head of stolen cattle. Three were killed by the Bosjesmen belonging to it, upon their discovering us. We shot four of the Bosjesmen, the other escaped, after which nothing was discovered, and I returned home on the last day of the month of August. I am &c.

(Signed) ABRAHAM MOUTON, Cornet.

[Enclosure 60.]

1 September 1800.

To the Fieldcornet Gerrit Maritz.

This serves to inform you how the expedition has succeeded upon which we have been. We met with twenty head of cattle that the Bosjesmen have left behind between Leeuwfontein and Vliege kraal, and two Bosjesmen have taken away six more. The track of them led to the point where the great and little Riet rivers unite, and from their appearance it is more than fourteen days since the cattle passed it. We could not ride any farther in pursuit of them on account of the weakly state of our horses, some of them being thus disabled

that we could hardly reach the Karroo. We again observed that amongst the tracks of the cattle there were no more than of two Bosjesmen. We conclude, and remain your friends.

(Signed) CHRISTOFFEL ESTERHUIZEN,
GERRIT S. MARITZ,
FRANS S. MARITZ,
CORNELIS VAN DER WESTHUYSEN,
ROELOF VAN WYK.

[Enclosure 61.]

MIDDEL ROGGEVELD, 9th September 1800.

To R. J. van der Riet, Esqre., Landdrost of Stellenbosch.

SIR,—This serves to inform you that upon the receipt of your first commands I gave orders to my men for the commando to Graaff Reinet, and for which I ordered fourteen Christians and five free blacks. Of that number I have only seven of the former and four of the latter. Every one had an answer that he could not ride. Some it was evident were ill at the time, it being proved that Gerrit Cloete had a rheumatic fever, and the wife of Zacharias de Beer was also ill from a complaint in her breast. I permitted Botes van der Westhuizen to return on account of proofs being given of his having an infectious disease that the other men of the commando would not that he should go with them for fear of being infected, and when the people belonging to the commando were assembled Jacob Kruger Junior, who was under the same orders, wished also to be at liberty.

I have also to inform you that robbers have been lately amongst the cattle of Gerrit Visser, of which they have killed one and with an assagaay wounded another according to his statement, whereupon I gave orders to some of the men, and requested him Visser to ride out with them, as also to take the charge in my room, I being about to have the command of a commando to Graaff Reinet, for which I daily expected directions from you, and therefore could not leave my place, when I also wrote in a line to him that he must forward the letter relating to the commando to Van der Westhuysen, but

he returned it, and had written at the bottom that he thanked me for the task and if I thought the means grew upon his back. I know that it does not grow upon his back, neither does it upon mine, nor upon that of any other person, but as the cattle belonged to him he could have done something in respect to them as his duty, besides which all the Inhabitants have sent their cattle to the Karoo, but he however suffers his to remain in the Roggeveld and is himself in the Karoo, and the robbers have now come again, which is the second time, have stolen some of his cattle and from Frederik Kemp a number of cattle, horses, and sheep, that upon what they stated I again ordered a commando, and dispatched it. Several cattle were retaken behind the Roggeveld near to the Great Riet river. The robbers had taken away six, but the men could not overtake them because of the weakly condition of their horses, as you may perceive in the report of the provisions which I sent thither, and when the commando for Graaff Reinet set out this one was not returned, but came afterwards.

I am &c.

(Signed) GERRIT MARITZ, Fieldcornet.

[Enclosure 62.]

21st January 1802.

Report to the Landdrost Ryno J. van der Riet, Esqre.

SIR,—This serves to inform you that upon the murder of Saaiman I set out with a commando on the 6th Instant to the Coup and proceeded to the Kaffers kraal, when I examined it, but did not find any thing, and that I traced the track of the waggon to the other side of the Leeuw river, and from thence to the Ruggens, but could not keep in that which went along the road leading to Graaff Reinet, because of its being defaced by a number of waggons passing that way. I therefore returned with the commando, and reached home on the 19th instant. I beg of you to supply me with the powder and shot that I requested. Some of the Hottentots have been very insolent towards the Christians, and I am also destitute of

ammunition, having no powder for a commando if anything should happen, in expectation of which I remain &c.

(Signed) JACOB KRUGER, Fieldcornet.

[Enclosure 63.]

22 April 1802.

Report to the Landdrost R. J. van der Riet, Esqre.

SIR,—This serves to inform you that the vagrants have stolen two oxen from the burgher Johannes Paulus Botma, that they were pursued, and that one of them was shot, but the other escaped, and that of the vagrants who on the 14th of April stole and killed several oxen at the place of the burgher Isaac van der Westhuyzen one Hottentot who was amongst the cattle was shot, and the other escaped the 20th April.

I am &c.

(Signed) JACOB KRUGER, Fieldcornet.

[Enclosure 64.]

LANDDROST'S OFFICE, SOMERSET, 23rd December 1826.

SIR,—In compliance with your letter of the 30th Ultimo, I have the honor to transmit copies of reports of Fieldcornets and of commandos and patroles conducted by them since the establishment of the Somerset District. I have &c.

(Signed) W. M. MACKAY, Landdrost.

The Hon. the Chief Secretary to Government.

[Enclosure 65.]

TARKA, 8th April 1825.

SIR,—This serves for report that I intend with a patrol to follow the stolen cattle of Mrs. Van Wyk on the 26th instant.

(Signed) T. H. STEENKAMP, Fieldcornet.

W. M. Mackay, Esqre., Landdrost.

[Enclosure 66.]

BRAK RIVER, 9th April 1825.

SIR,—This serves for report that the Bushmen on the 2nd Instant have stolen 18 oxen and 2 horses, and on the 3rd Instant have taken away four oxen. The acting Fieldcornet followed them with a patrol. The oxen and the horses were struck to death by them, and they fired on the patrol very severely with poisoned arrows. The acting Fieldcornet then fired in return, and shot thirteen of the same Bushmen. The Bushmen are going on in a dreadful manner, by night they are destroying the gardens and killing the cattle in the kraals of the Inhabitants. They have attacked more than ten farms in one night. I have &c.

(Signed) A. PRETORIUS, Fieldcornet.

W. M. Mackay, Esqre., Landdrost.

[Enclosure 67.]

TARKA, 5th May 1825.

Report to W. M. Mackay, Esqre., Landdrost of Somerset.

SIR,—I beg to acquaint you respecting the patrol that I have conducted after the stolen cattle of Mr. S. J. van Wyk. I must acquaint you Sir that I found all the cattle dead in Kiwiet's kraal. Said Kiwiet would not deliver himself up as a prisoner. He wounded one of my Hottentots belonging to my patrol, and likewise fired several poisoned arrows. Said Kiwiet was killed, and his wife and children I have given permission to go and reside with whom they choose.

(Signed) J. H. STEENKAMP, Fieldcornet.

[Enclosure 68.]

BAVIAANS RIVER, 26th May 1825.

SIR,—In the absence of the Fieldcornet C. F. van der Nest I have this day ordered a patrol to go to the Winterberg to search if they can find any traces of strange nations, and on their return shall report the result. I have &c.

(Signed) P. R. ERASMUS, Fieldcornet.

W. M. Mackay, Esqre., Landdrost.

[Enclosure 69.]

BAVIAANS RIVER, 30th May 1825.

SIR,—This report serves for your information that the patrol which was sent out by your order on the 26th Instant is returned, the same was on the other side of the Winterberg. They have received no information respecting the Mantatees or other strange nations. In the middle of the upper branch of the Konap are a great number of Caffers who have with them a great number of cattle. The patrol did not speak with the Caffers. Under the Winterberg the patrol met two Caffers with two horses, and as soon as the Caffers saw the patrol they rode away. The patrol followed them close by a forest, where they made their escape, and left one horse in front of the forest, which horse is brought back by the Fieldcornet Erasmus and remains under his charge until further orders.

I have &c.

(Signed) C. F. VAN DER NEST, Fieldcornet.

W. M. Mackay, Esqre., Landdrost.

P.S.—I have this day ordered a patrol, and my intention is to depart on the 1st June for the purpose of examining whether they are hunting Caffers that are now in the branch of the Konap and whether they are living there, for it appears very strange to me that they have come so far within the Boundary with such a number of cattle, and I am afraid that they intend doing something which is not right.

[Enclosure 70.]

Report to the Landdrost of Somerset District.

SIR,—We arrived at the Boundary of the Winterberg's post on the 5th June, and on the 6th I met the Tambookies in Los Tafelbergs Post. The Tambookie spies are gone in search of the Mantatee kraals. The Tambookies say that the Mantatees are now on the other side of Somoe.

(Signed) C. VAN AARD, Acting Fieldcornet.

[Enclosure 71.]

BAVIAANS RIVER, 5th June 1825.

SIR,—This serves for your information of my journey of the 2nd Instant with the patrol. I was under the Winterberg where the last patrol was to look for the Caffers that were at the branch of the Konap. I have found no cattle or Caffers, but a great many traces both of cattle and horses which appear to me by the traces were there only the day before. The traces all appear to have gone back above Kat River. I wished to speak with the Caffers, but could not find any.

I have likewise to inform you that I have found the Bushmen kraal which in all probability are doing a great deal of damage. I went yesterday morning with ten men towards the kraal, and in going up to the kraal I met one of their spies who wanted to see who we were. The Bushman came very near to me. I would not fire nor allow any to fire. I called out that he must stand, but he would not. I caused two shots to be fired in the air to see if he would stop. He ran away, being very near the forest, and made his escape. The others who were in the kraal came immediately to the top of the mountain, and talked a great deal, but we could not understand anything they said. When I found that I could not do anything further I returned. I must inform you that it is a most dreadful rock where they are in, and likely will not remain there long, for there are so many rocks that I think it will be very hard to find them again. The kraal lays within the boundary at the middle branch of the Konap.

(Signed) C. F. VAN DER NEST, Fieldcornet.

W. M. Mackay, Esqre., Landdrost.

[Enclosure 72.]

Report to the Landdrost of Somerset.

TARKA, 8th June 1825.

SIR,—I must inform you about the strange nation, that I with my patrol have found nothing, and on my return I went to four Tambookie chiefs and spoke to them respecting the

strange nation. They said it was at the Baarsee River where the Battle was fought. The chief complains over the Goes for having taken their baken (or landmark) away. There are eight spies belonging to the Tambookies following the traces of the cattle. I have &c.

(Signed) J. H. STEENKAMP, Fieldcornet.

[Enclosure 73.]

5th July 1825.

SIR,—This report serves for your information that I have this day sent out a patrol of seven men for the purpose of looking for the Bushmen's kraal that have done so much damage in this Fieldcornetcy. I have &c.

(Signed) C. F. VAN DER NEST, Fieldcornet.

W. M. Mackay, Esqre., Landdrost.

[Enclosure 74.]

BAVIAANS RIVER, *25th July 1825.*

SIR,—This serves for your information that the first patrol that I gave you information of have not found the Bushmen's kraal. They saw one Bushman, in consequence of which I sent out another patrol on the 22nd instant, which returned yesterday evening and could not find the kraal. I shall continue sending out patrols, although I am persuaded that it will be very troublesome to find it out. I have &c.

(Signed) C. F. VAN DER NEST, Fieldcornet.

W. M. Mackay, Esqre., Landdrost.

[Enclosure 75.]

TARKA, *28th July 1825.*

SIR,—I have to inform you that the Bushmen have stolen from the burgher Jacobus Botha 8 horses. My intention is to go out with a patrol about the 10th August after the stolen horses. I have &c.

(Signed) J. H. STEENKAMP, Fieldcornet.

W. M. Mackay, Esqre., Landdrost of Somerset.

[Enclosure 76.]

BAVIAANS RIVER, 18th August 1825.

SIR,—This report serves for your information that the patrol which I last acquainted you with that went after the traces of Blok's horses returned this morning. They found the five horses in the Bushmen's kraal. The patrol followed the trace of the horses until they overtook them, when the Bushmen fled for refuge amongst the rocks. They told the patrol that this time they had taken the horses easy, but we will come and fetch them again, and then they abused the patrol. The number of Bushmen that was seen by the patrol was seven fighting men. One of the Bushmen had a new suit of leather clothes on him, appears to have received them but a short time back. I likewise beg to report that six Bushmen and four Caffers on Tuesday last took away a child belonging to Christian Groepe, they fired one arrow at him, but did not touch him, and kept the child with them until yesterday about 11 or 12 o'clock; they left him between my place and Mr. Devenish on the top of a mountain. The boy came immediately to Mr. Devenish and stated what they had been doing with him. A party of men who are living at my place went with the boy to the place where they let him loose, there they found the traces, but they had fled. The party could not keep the traces in consequence of the grass being so high. It appears that there is a great number of them assembled, for the patrol found 7 by the kraal and 6 by the boy, and they had not reached the others. I have &c.

(Signed) C. F. VAN DER NEST, Fieldcornet.

W. M. Mackay, Esqre., Landdrost of Somerset.

P.S.—I must inform you that I was not at home when the boy came. I came home yesterday evening, and am going off directly to see if I can find the Bushmen.

[Enclosure 77.]

BAVIAANS RIVER, 25th August 1825.

SIR,—This report serves for your information of my patrol of the 18th Instant. I found the Bushmen's kraal on the 21st

Instant. My patrol was too weak to attack the Bushmen. I had seven men with me. Having taken every observation that was requisite, I considered it best to return to the Konap to the place of Willem Prinsloo. There I commanded some more men, so that I had together eighteen men, and the Honorable Captain Massey assisted me with himself and 35 men of his troop. In the night of the 22nd we approached nearer to the kraal. In the morning of the 23rd at daybreak we entered the kraal, for it lay in a forest, where we found the Bushmen. As soon as they were aware of us they assembled together, for they were in two parties, and called each other together, whistling a signal for defence, which they did. I called to them several times to come out and deliver themselves up, and that nothing would be done to them, but they would not. I found by them four trained draft oxen and one riding horse of the bastard Adam Weymers (which they had stolen a short time back) laying together stuck to death. We surrounded the forest with a guard, and I and Lieutenant Sheppard entered the bushes where they were in, and as soon as we were in the bushes they went to the outside and began firing poisoned arrows, wounded one of the soldiers in the arm and one of the horses in the leg, so that he could scarcely walk. They fired at everything they saw, so that we took the martial law in use and fired on them and killed two of the principal ones of the Bushmen gang named Dragonder and Wildeman, and one woman was shot in the affair. One grown up woman and one child wounded, one woman and three children taken prisoners, which we left in the kraal. One of the little girls could speak Dutch, who told us that the two which were shot were Dragonder and Wildeman. As soon as they saw an opportunity at the corner of the forest they fell upon the three soldiers and drove them away. There were then 8 or 10 Bushmen. We then followed them to another larger forest, and wounded two or three of them. As near as I can guess there are about twenty which made their escape.

I have &c.

(Signed) C. F. VAN DER NEST, Fieldcornet.

W. M. Mackay, Esqre., Landdrost of Somerset.

[Enclosure 78.]

RIET RIVER, 18th December 1825.

SIR,—I have to inform you that I have by order of Colonel Somerset commanded twenty-six men to be present on the 20th Instant at Meyer's Kraal, which I have done.

I have &c.

(Signed) T. R. ERASMUS, Fieldcornet.

R. Hart, Esqre., Acting Landdrost.

[Enclosure 79.]

RIET RIVER, 27th December 1825.

SIR,—This serves for report respecting the cattle which I received from Colonel Somerset to be divided amongst the Inhabitants of the District of Somerset. It was two hundred and fifty-one head of cattle which I received from the Colonel, which we brought out with the commando that went to Cafferland on the 21st Instant. I have given to the Fieldcornetcy of Riet River 146 head and to the Fieldcornetcy of Baviaans River 105. A list of the same I have sent to the Colonel. I have &c.

(Signed) J. J. DURAND, Field Commandant.

W. M. Mackay, Esqre., Landdrost of Somerset.

[Enclosure 80.]

RIET RIVER, 13th January 1826.

SIR,—This report serves to inform you that I have received orders from Lieutenant Rogers at Kaka post to command 26 men, which I have done, and at the same time received a report from Frederik Greef that the Caffers have stolen 34 horses. Lieutenant Rogers with the burghers and some mounted dragoons followed the trace to Kat River Post, where the Kaffers are laying within the boundary and took

from them 365 head of cattle and brought them to the Post. The patrol left on the 9th and returned on the 12th Instant.

I have &c.

(Signed) T. R. ERASMUS, Fieldcornet.

W. M. Mackay, Esqre., Landdrost of Somerset.

[Enclosure 81.]

BAVIAANS RIVER, 13th January 1826.

SIR,—This report serves for your information that I have by order of the Commanding Officer Rogers on the Boundary commanded sixteen men. Agreeable to a report made to the Fieldcornet Erasmus that the Caffres had stolen from the burgher Claas Greef 34 horses, which the officer with 40 burghers and 20 dragoons followed the traces as far as the Kat River Post, and in the same direction where they overtook them. A great number of Caffres were laying on this side of the Boundary with a great number of cattle, and from the same Caffres were taken 365 head of cattle, when the Caffres came forward without fear against the patrol about an hour and a half on this side of the kraal where the beasts were taken from. The Caffres assembled, and our patrol was attacked by storm, as soon as we came to a place to defend ourselves we fired upon them, and drove them back, and brought the cattle with us and left them at the Kaka post. I have &c.

(Signed) C. F. VAN DER NEST, Fieldcornet.

R. Hart, Esqre., Acting Landdrost.

[Enclosure 82.]

TARKA, 21st January 1826.

SIR,—I have received a report from the Fieldcornet Steenkamp that some robbers have stolen from Jan Hendrik Roetz 191 head of cattle and 8 horses which I am now going after with a commando. On my arrival at the Boundary I found three Tambookie Chiefs with a great number of their people with them, who were ready to go with me saying that they

were continually robbed and murdered by these robbers. Having understood that the idea of the Tambookies is to seek revenge for the murders which have been committed more so than to recover these stolen cattle, I ordered them to return to their kraals and promised them that if I found any of the stolen cattle that I would bring it to them. I have &c.

(Signed) S. J. VAN WYK, Commandant.

W. M. Mackay, Esqre., Landdrost of Somerset.

[Enclosure 83.]

TARKA, 5th February 1826.

The undersigned reports to W. M. Mackay, Esquire, Landdrost,

That the commando of the 21st ultimo has found nothing. The traces of the stolen cattle are destroyed by the heavy rains, so that we cannot find the robbers. We turned back at the Great River. We cannot say from the traces what nation it is that stole the cattle, whether it was Caffres, Goes, or Fitcanies. By the nearest examination it appears to be the last mentioned. There are hundreds of dead men's heads at the Great River to be seen, and as far as I can learn they have been murdered by the last mentioned. As far as I can learn by reports which I have heard the Fitcanes intend to make an attack on the Boundary, and as the cattle have been stolen from Roetz by a great number of robbers, it appears that the reports are true. The Fieldcornet Steenkamp considers it necessary to bring the Inhabitants together who are living at the most remote part of the Boundary, and there to leave a guard at two of those places until we can see what will be the effect. I request 10 men from behind the Sneeuwberg. The Fieldcornet assures me that he has no ammunition to protect the Boundary. As I have perceived such to be the case when on the command I request that you will be pleased to assist me with some, so as to enable me if I should be wanted to protect the Boundary.

Waiting your answer respecting the guard and ammunition,

I have &c.

(Signed) S. J. VAN WYK, Commandant.

[Enclosure 84.]

BRASSE RIVER, 25th February 1826.

SIR,—With this I report to you that the Bushmen have taken away from Jan van Tonder four horses, from Tjaart Steyn ninety sheep, from Willem Pretorius eighteen head of cattle. A short time back at three places they have destroyed the gardens. I have sent out a patrol after them. Part of the sheep and cattle are come back again. The patrol which went after the horses is not yet returned. I have &c.

(Signed) A. PRETORIUS, Fieldcornet.

W. M. Mackay, Esqre., Landdrost.

[Enclosure 85.]

BAVIAANS RIVER, 25th February 1826.

SIR,—This report serves for your information that the Bushmen on the 19th Instant took away five head of cattle from James Gordon and kept them, three head they have wounded, and two they have killed at his place. I sent a patrol immediately after them, but could not overtake them. In consequence of the long grass they could not keep the traces. I shall go with a patrol myself to try if I can find them. I have &c.

(Signed) C. F. VAN DER NEST, Fieldcornet.

W. M. Mackay, Esqre., Landdrost.

[Enclosure 86.]

TARKA, March 6th 1826.

SIR,—I must report to you that four riding horses have been stolen by the robbers. It appears by the traces that they are Bushmen. And five oxen they have taken from Wentzel Koetzee. The horses are the property of Frans Jacobus Labuscagne. I have commanded a small patrol to follow them. I have &c.

(Signed) J. H. STEENKAMP, Fieldcornet.

W. M. Mackay, Esqre., Landdrost.

[Enclosure 87.]

TARKA, 30th March 1826.

SIR,—This serves for report that the patrol which I sent after the stolen horses of Frans Jacobus Labuscagne have found nothing. Likewise I have to inform you that the Bushmen have stolen six horses from Daniel Kriegel. I could not keep the traces in consequence of the heavy rains. I sent out spies to see where the kraal is. I have &c.

(Signed) J. H. STEENKAMP, Fieldcornet.

W. M. Mackay, Esqre., Landdrost.

[Enclosure 88.]

Report to the Landdrost W. M. Mackay, Esqre.

TARKA, 18th May 1826.

I have to inform you that I have received a report dated 18th Instant from the Acting Fieldcornet Burger G. Smit that the robber Caffres and Bushmen have stolen in the night from the burgher Ferdinand Pietersen eighty-three head of cattle. The Acting Fieldcornet followed them to the Boundary at Great River, where they concealed themselves among the rocks with the stolen cattle, and where he was obliged to shoot three Caffres and one Bushman in defence of his own life.

(Signed) J. H. STEENKAMP, Fieldcornet.

[Enclosure 89.]

BRAKKE RIVER, 26th May 1826.

SIR,—The Bushmen took four horses from Hans van Tonder. I ordered the provisional Fieldcornet to follow them. They opposed the party, and two of them were shot. I have &c.

(Signed) A. PRETORIUS, Fieldcornet.

W. M. Mackay, Esqre., Landdrost.

[Enclosure 90.]

Report to the Landdrost W. M. Mackay, Esqre.

TARKA, 2nd June 1826.

SIR,—I must inform you that I have not found the robbers that stole the horses of Jan Robberts. I found a great many traces where the robbers had been riding on horseback, but could not find the place where they concealed themselves.

(Signed) J. H. STEENKAMP, Fieldcornet.

[Enclosure 91.]

BAVIAANS RIVER, 14th September 1826.

SIR,—This is to inform you that on the 12th Instant the Caffres stole three horses from Mr. Devenish, two riding horses and one stallion, the one he bought at Captain Stockenstrom's sale. I followed the traces with five men to the middle branch of Konap, but could not overtake them, they went in the direction above Kat River. I am &c.

(Signed) C. F. VAN DER NEST, Fieldcornet.

W. M. Mackay, Esqre., Landdrost of Somerset.

[Original.]

Letter from SIR RICHARD PLASKET *to* R. W. HAY, ESQRE.

CAPE OF GOOD HOPE, February 25th 1827.

MY DEAR SIR,—In reply to that part of your letter of the 30th October in which you ask my opinion of Lieutenant Bance, our new Port Captain, I have much pleasure in assuring you that he is everything we could wish for. He is zealous, active, intelligent and economical, and at the same time that Government is perfectly satisfied with him, he has contrived to gain the good opinion of all the merchants and others connected with the Port.

I see a good deal of him in my house, and he is as much

esteemed in society as in his public situation. In fact we could not have a better man to retrieve the character of our Port. I have &c.

(Signed) RICHARD PLASKET.

[Original.]

Return of Troops serving at the Cape of Good Hope on the 25th of February 1827.

Officers of all ranks at the Regimental Head Quarters or on Detached Duty at the Station . . .					115
Sergeants, Trumpeters, Drummers, and Rank and File :					
Royal Artillery	.	.	.	.	67
Royal Engineers	.	.	.	.	18
49th Regiment	.	.	.	.	514
55th Regiment	.	.	.	.	528
98th Regiment	.	.	.	.	530
Cape Corps	{	Cavalry	.	.	263
		Infantry	.	.	282
Grand Total					2,317

(Signed) RICHD. BOURKE, Major-General.

[Original.]

Letter from MAJOR-GENERAL BOURKE to R. W. HAY, ESQRE.

NEWLANDS, February 26th 1827.

MY DEAR SIR,—The Lords of the Treasury have finally determined that the rixdollar of this Colony is to be redeemed at 1s. 6d. I have found it necessary to request Earl Bathurst's attention to the state of our Currency. The despatch which I have written by this opportunity is I believe sufficiently explicit, but it has just occurred to me that His Lordship may not have it in his recollection that there are two separate banking Establishments here, both originally set up by this

Government, the one called the *Lombard Bank* for lending money on mortgage of landed property or other solid security, the other called the *Discount Bank* for the discounting of notes, bills, &c., as is common in Europe. The observations I have made in the despatch are applicable to the former only, as the Discount Bank must be maintained for the accommodation of merchants, retailers, and others who want a temporary supply, as well as a secure bank for deposits. The capital of this bank being small, and not having the power of issuing its own notes, its operations can never materially affect the Currency.

I am sanguine enough to believe that the arrangement I have proposed would render the currency of this Colony as good as that of the United Kingdom ; as the amount of £50 of the notes being at any time convertible into a bill on the British Treasury at par, would render them, for all our purposes, as convenient as if at once convertible into gold. I conceive that under this arrangement not more than fifty or sixty thousand pounds in silver and copper money would be required. This sum has already been sent to the Colony, but more than half of it has been re-exported ; the premium of 3 per cent now asked for Treasury Bills being excessive.

As the state of slavery all over the world is likely to occupy the attention of the British Parliament, you will be glad to learn that the Ordinance lately passed here is beginning to operate very beneficially. There have been several convictions under it for ill-treatment before different tribunals ; and it is not above ten days since the Board of Landdrost and Heemraden of the George District decreed the sale of all the slaves belonging to a farmer as a punishment for repeated ill-treatment of a female. I hardly expected that the Country Magistrates would have acted so efficiently, and I consider this sentence as highly creditable to the Magistrates of George. I have observed also with much satisfaction a considerable sense of shame evinced by some of those who have been lately convicted, and more anxiety to get rid of the imputation than to escape the penalty.

In other respects I have nothing very important to communicate that has not been already made the subject of a despatch. You are aware of the abeyance in which this

Government has been placed by the protracted visit of the Commissioners of Inquiry, and the difficulty which I find in keeping in a state of useful activity those Institutions and Laws which have been condemned as it were by *authority*, but for which no substitute has as yet been disclosed. People lend an unwilling obedience to what they have been told is erroneous and is not likely to last, and the local Government feels no inclination to introduce or suggest improvements in a system which it is supposed has already been revised by another hand. My efforts have therefore simply been to maintain economy in our expenditure and the due administration of justice under the existing laws, and until the arrangements of the Commissioners of Inquiry are decided on, the local Government cannot be more extensively useful.

In one of our Districts we are suffering for want of a Landdrost. I trust that the next mail may bring something decisive as to Mr. Rivers. I am &c.

(Signed) RICHARD BOURKE.

The last advices from Downing Street were of the 31st October.

[Office Copy.]

Letter from R. W. HAY, ESQRE., to SIR HERBERT TAYLOR.

DOWNING STREET, 26 *February* 1827.

MY DEAR TAYLOR,—Having brought under Lord Bathurst's consideration the subject of your note of the 23rd instant, his Lordship has desired me to request you to state to the Commander in Chief that as there seems to be no prospect of its being possible to send out a Regiment for the relief of the Cape Corps, there appears to be no alternative but to maintain the latter Regiment upon an efficient footing for the present ; consequently to fill up its Establishment of Officers.

Believe me &c.

(Signed) R. W. HAY.

[Original.]

*Letter from SIR RICHARD PLASKET to R. W. HAY, ESQRE.*CAPE OF GOOD HOPE, *February 26th* 1827.

MY DEAR SIR,—The Commissioners of Inquiry have never deigned to ask my opinion as to the Establishment that will be requisite to carry on the duties of my Office. What they may have recommended I know not, but I know full well that in its present state it is the most inefficient office in the Colony, and so far from being able to set a good example in my own office, which I have been always accustomed to do elsewhere, I am quite ashamed of the state of it myself. I have complained of it to Lord Charles, to you, and to the Lieutenant Governor, and should have written officially on the subject, had I not lived in the expectation of seeing something decided by the Commissioners. It is true I labour under peculiar difficulties at present, owing to Mr. Brink, the Assistant Secretary to Government, being absent in England, but independently of that temporary circumstance, the establishment itself will shew you what I have to depend upon.

Just after my arrival Lord Charles made a promotion in my office which took away all the experienced clerks, and with the exception of Mr. Brink and the Accountant, left me with a parcel of boys, with £40 or £50 a year, and some of them not worth that. I represented it to Lord Charles at the time, but did not wish to interfere in the promotion of men whom he stated to be very deserving, and whose pay could not, under the circumstances, be encreased in the Office. I also got Lord Charles to write to the Commissioners to recommend an encrease to the Accountant, who threatened to leave my office, but they would do nothing for him, and it is only owing to the expectations I have myself held out to him that he has remained.

I enclose a Memorandum of what the establishment of my office is now, and of what I propose it should be. It is less than that of my office in Malta, where I had not a fourth part of the business.

Since the Council has been established much of my time has been taken up by its sittings, particularly since General Bourke's arrival, as we have usually devoted two days in the

week to it. It is a pity you could not manage to make the Secretary to the Council deputy or Assistant Secretary to Government. It would be a very economical arrangement, and would ease the Chief Secretary of much trouble as to Council Papers, and would render the two Offices equally efficient. By this measure the proposed encrease to my office would be attended with no expence whatever. I have &c.

(Signed) RICHARD PLASKET.

[Enclosure 1 in the above.]

Present Establishment of Chief Secretary's Office.

Situation.	Name.	Salary.	Duties and Competency.
Assistant Secretary	P. G. Brink .	£600	Absent in England on leave.
Chief Clerk . . .	J. G. Brink .	£225 *	A useful active clerk, copies well and correctly, but does not understand the English Language enough to write a letter or correct one when copied.
First Clerk . . .	A. de Smidt	£75 †	A very competent person, but he is employed in the office of Land Surveyor, and has nothing whatever to do with the regular business of the Secretary's Office.
Second do. . . .	C. M. Zastron	£180 ‡	Employed in the Transfer of Estates and Debt Register Department, and has nothing to do with the regular duties of the Secretary's Office.
Third do.	J. A. le Sueur	£52 10s.	Copies fast and writes a good hand, but has no idea of the correctness of the English Language.
Fourth do.	P. Korsten .	£52 10s.	The others have been put into my office before my arrival. Some of them copy well, but don't understand English. Others are so useless that the only reason I don't get rid of them is because I can get no one to take them.
Fifth do.	F. J. Freislich	£52 10s.	
Sixth do.	J. Trueman .	£52 10s.	
Seventh do.	E. F. S. Gie .	£37 10s.	
Eighth do.	G. S. Russouw	£37 10s.	
Ninth do.	J. F. Goodwin	£37 10s.	
Tenth do.	Vacant .	—	

* Encreased from £107 in 1825, in consequence of the Office of Collector of Stamps worth £150 per annum being taken away from him.

† Receives fees for copying diagrams to the amount of £150 per annum.

‡ Encreased from £86 in 1825 in consequence of the office of book-keeper to the Printing Office taken from him, and the responsibility of his situation.

Present Establishment of Chief Secretary's Office.—continued.

Situation.	Name.	Salary.	Duties and Competency.
Eleventh Clerk .	Vacant .	—	The fact is that I could not have got on at all without Mr. Miller, who has taken the general correspondence of the Office; and Mr. Dickenson, an extra clerk who has had charge of the despatches to England. A very competent person, whom I have had great difficulty in keeping in the Office, owing to the smallness of his salary.
Accountant .	H. Tennant .	£90	

(Signed) R. PLASKET.

[Enclosure 2 in the above.]

Proposed Establishment of Chief Secretary's Office.

Situation.	Name.	Salary.	Remarks.
Assistant Secretary to Government.	P. G. Brink .	£600	I have put Mr. Miller and Mr. Dickenson, who have both been employed under Government for two years, in the room of Messrs. De Smidt and Zastron, as the Land and Transfer Departments are proposed by the Commissioners to be taken from the Colonial Office, and I conclude as they are thoroughly acquainted with the duties, that they will follow those branches wherever they may be fixed.
Chief Clerk .	J. G. Brink .	£260	
First Clerk .	T. Miller .	£220	
Second do. .	F. Dickenson	£180	
Third do. .	J. A. le Sueur	£120	
Fourth do. .	—	£100	
Fifth do. .	—	£80	
Sixth do. .	—	£80	
Accountant .	H. Tennant .	£180	
		£1820	
		2000	
		£3820	

[Office Copy.]

Letter from EARL BATHURST *to* MAJOR-GENERAL BOURKE.

DOWNING STREET, LONDON, 27th February 1827.

SIR,—I transmit to you enclosed a copy of a note which has been addressed to my Under Secretary of State by His Majesty's Minister at the Court of Berlin, concerning copies of a letter and its enclosure which he had received from the Rudolstadt Minister, in which he requests to be informed of the steps which it will be necessary to take for the purpose of withdrawing from the Cape of Good Hope, certain funds belonging to the heirs of one Godfrey Erfurth, which it appears are held in charge by a Merchant of the name of Lehman, resident at the Cape, and I have to desire that you will cause such enquiries to be instituted on this subject as will enable me to comply with the wish which has been expressed by the Rudolstadt Minister at Berlin. I am &c.

(Signed) BATHURST.

[Original.]

Letter from LORD CHARLES SOMERSET *to* R. W. HAY, ESQRE.

48 LOWER GROSVENOR STREET, LONDON, 27th February 1827.

SIR,—I do myself the honor to transmit to you copy of a letter I addressed to the Secretary at War, relative to the appointment of Lieutenant Knight to be Paymaster of the Cape Corps and His Lordship's answer thereto, by which you will perceive that his Lordship considers that the matter should more properly be submitted to Earl Bathurst, and I have therefore the honor to request that you will be pleased to lay Lieutenant Knight's name before His Lordship for confirmation should the securities named be approved. I have &c.

(Signed) CHARLES HENRY SOMERSET.

[Office Copy.]

Letter from EARL BATHURST *to* MAJOR-GENERAL BOURKE.

DOWNING STREET, LONDON, 28th February 1827.

SIR,—Having had occasion to acquaint Governor Lord Charles Somerset with the abolition of the Government Slave Lodge, as recommended in your dispatch of the 22nd of June last, I also mentioned to him the opinion which you had expressed of the conduct and general character of the Government Slaves ; and as His Excellency has assured me that he is at a loss to conceive what could have given rise to your unfavourable opinion of those individuals, I am willing to hope that it may have proceeded from information which was supplied to you, and that it may not have been the result of your personal observation. At all events I think it but due to the Slaves to acquaint you that the Governor has borne testimony to the good conduct of those who are employed in his own Establishment, and at the same time assured me that no complaint had ever reached him respecting the conduct of the others. I am &c.

(Signed) BATHURST.

[Office Copy.]

Letter from R. W. HAY, ESQRE., *to* J. C. HERRIES, ESQRE.

DOWNING STREET, 28 February 1827.

SIR,—Having laid before Earl Bathurst your letter of the 21st instant relative to a sum of money which is stated to have been forwarded to this Country from the Cape of Good Hope by one D. Cawood through the medium of the Government, I have received his Lordship's directions to refer you to my letter to Mr. Hill of the 27th ultimo, transmitting for the consideration of the Lords Commissioners, copies of communications upon the above subject which had been received from the Lieutenant Governor of the Cape. I am &c.

(Signed) R. W. HAY.

[Office Copy.]

Letter from R. W. HAY, ESQRE., to MAJOR CAMERON.

DOWNING STREET, 28 *February* 1827.

SIR,—With reference to my letter to you of the 14th instant in which I acquainted you that your Memorial to Earl Bathurst had been transmitted to the Lords Commissioners of His Majesty's Treasury, I am directed by his Lordship to acquaint you that as the Lords Commissioners are of opinion that you have no claim upon the Public for indemnification for the losses which you consider yourself to have sustained by the depreciation of the Currency at the Cape of Good Hope it is not in his Lordship's power to accede to the prayer of your Memorial.

I am &c.

(Signed) R. W. HAY.

[Office Copy.]

Letter from R. W. HAY, ESQRE., to LORD CHARLES SOMERSET.

DOWNING STREET, 1st *March* 1827.

MY LORD,—Having laid before the Earl Bathurst your Excellency's communication of the 27th ultimo, I have received his Lordship's directions to acquaint your Excellency that it will be unnecessary to enquire into the validity of the securities which are proposed for Lieutenant Knight as Paymaster of the Cape Corps, as his Lordship has it in view to select another person for that appointment. I have &c.

(Signed) R. W. HAY.

[Original.]

Letter from T. P. COURTENAY, ESQRE., to R. W. HAY, ESQRE.

ABINGDON STREET, *March 1st 1827.*

SIR,—Having been directed by Major General Bourke to take Earl Bathurst's directions on the application which he has made to His Lordship for two English Teachers for the Cape of Good Hope ; I have to request that you will be pleased to inform me of the decision which His Lordship may form thereon. I have &c.

(Signed) T. P. COURTENAY,
Agent for the Government of the Cape of Good Hope.

[Office Copy.]

Letter from R. W. HAY, ESQRE., to SIR RICHARD PLASKET.

DOWNING STREET, *2nd March 1827.*

MY DEAR SIR,—I have received your letter of the 18th December last, on the subject of the delegation to the Governor by the Council at the Cape of their authority to issue Proclamations touching the Laws of the Colony ; and I not only agree with you in opinion upon the individual case which has given rise to your communication, but also in regard to the general question of the impropriety of the Council delegating a power to the Governor which it appears to me he should exercise conjointly with them. The very object of instituting the Council was to relieve the Governor from the odium and responsibility of legislating alone ; and if the Council by their acts delegate to the Governor a portion of the very authority thus taken from him, it seems to me that they are counteracting the object of their own institution. Of course one might conceive cases in which a delegation of power would be necessary. Emergencies might arise in which the immediate action of a single authority might be essential to the peace and good Government of the Colony. Such cases must form exceptions to the general rule as they arise ; but

the fixing a time for a total change of the language in which justice is administered does not seem to me to constitute a proper case for an exception. Believe me &c.

(Signed) R. W. HAY.

[Office Copy.]

Letter from EARL BATHURST *to* MAJOR-GENERAL BOURKE.

DOWNING STREET, LONDON, 3rd March 1827.

SIR,—I have to acknowledge the receipt of your dispatch No. 99 of the 21st of September last, with a statement therein enclosed of such alterations as have been made in the Establishment of the Government of the Cape during the Quarter ending on the 30th of September last.

I approve of your encreasing the Salaries of the two Clerks in the Wharf Office to the sum of One hundred Pounds to each.

I do not object to the Salary of the Superintendent of the Printing Office being encreased to £200 per annum; nor to the Salaries of the Apprentices in that office being included in the ordinary disbursements. But I must request that you will for the present make no further alteration in the Establishment of the Printing Office.

I approve of your having charged the expense of keeping up the light at Greenpoint to the fixed contingent Expenditure of the Government.

I further approve of the encreased Salary which had been allowed to the Superintendent of the Government Gardens and of the Salary assigned to the Overseer at Camp's Bay.

I am &c.

(Signed) BATHURST.

[Original.]

Letter from JOHN BARROW, ESQRE., to R. W. HAY, ESQRE.

ADMIRALTY OFFICE, 3rd March 1827.

SIR,—I am commanded by my Lords Commissioners of the Admiralty to acquaint you for Earl Bathurst's information that they have received from the Principal Officer superintending the dockyard and victualling duties at Simon's Town, in the Colony of the Cape of Good Hope, a copy of an Ordinance of the Lieutenant Governor for the better regulation of the Post Office of the Colony, together with copies of letters between the said principal officer and the Secretary to the Government on a provision in the 4th article of the said regulations affecting the principal officer's official correspondence.

My Lords command me to send you herewith copies of these letters, and to state that the regulation itself and the explanatory answer of Sir Richard Plasket which subjects the correspondence of the principal officer of the dockyard to the sanction of the officer commanding His Majesty's ships and vessels on the Station, proceeds on a misconception of the station and duties of these officers respectively.

The principal officer of the dockyard is a civil servant whose situation is wholly distinct from that of the Naval Commander of the ships on the station, and is not in any way altered by the absence or presence of such Naval Commander.

These officers act under and are immediately responsible to different departments, and they are in some measure checks on each other, and my Lords are decidedly of opinion that it would be improper and could not fail to be productive of inconvenience if the Head of the Civil Department should be obliged to request the counter-signature of the Military Commander to his correspondence, and the proposition for sending his letters under cover to the Commanding Officer is still more objectionable, for the Commanding Officer cannot be considered as resident in the Colony; his presence is in fact, and can only be, occasional, and he is at any moment liable to be called away to distant duties.

Under all these circumstances My Lords desire me to request

you will move Lord Bathurst to interfere with the local Government of the Cape of Good Hope to have this error in the regulations in question rectified.

My Lords further command me to acquaint you that their attention has also been called to the 6th article of the said Regulations, which subjects to internal colonial postage letters franked by persons at Home *in right of their offices* unless (which has not hitherto been necessary or usual either at Home or abroad) such Officer shall superscribe his letter as being *on His Majesty's Service*.

This Regulation applies to the letters of the Secretary of State himself, and of all persons having an official right of franking at Home, and if Earl Bathurst himself sees no objection to it, of course this Department cannot make any, but as it appears to my Lords to be an innovation of an established usage their Lordships have thought it right to bring it more immediately to Lord Bathurst's notice. I am &c.

(Signed) JOHN BARROW.

[Original.]

Letter from the REVEREND DR. MANUEL *to* R. W. HAY, ESQRE.

SCOTT'S PLACE, MORNINGSIDe,
NEAR EDINBURGH, N.B., *March 3rd* 1827.

SIR,—I have just received a letter from the Revd. John Cassie, in which he states that the only thing which now detains him from proceeding to Holland is his ordination. Before he can obtain this from a Presbytery of the Church of Scotland, it is necessary, as you are no doubt aware, that he receives from the Right Honorable Earl Bathurst an official *letter of appointment* to one of the vacant churches in the Cape of Good Hope. The Presbytery requires this, or some such document in the shape of a Presentation, before it will confer Ordination. I recollect that in the case of some of the other young men who received appointments of a similar kind, and who are now in the Cape, there was furnished to them a copy of His Excellency the Governor's Dispatch to Earl Bathurst, nominating them to churches which were then vacant. This

was considered by the Presbytery as quite equivalent to a Presentation. As however, Lord Charles Somerset is in this country, a letter from the Right Honorable Secretary of State for the Colonies, appointing Mr. Cassie to fill one of the vacant churches in the Cape will be considered as a regular document upon which the Presbytery will proceed to his ordination. Should this not be transmitted to him before my letter reaches you, he requests me to say that he will feel much honoured and obliged by being favoured with it at Earl Bathurst's convenience. I have &c.

(Signed) WM. MANUEL.

[Office Copy.]

Letter from EARL BATHURST *to* MAJOR-GENERAL BOURKE.

DOWNING STREET, LONDON, 4th March 1827.

SIR,—I have had under my consideration your dispatch of the 16th of October last enclosing the Draft of an Ordinance which you recommend should be issued for the purpose of extending the powers of the Courts of Landdrost and Heemraden in Civil matters.

As it is highly probable that measures will be adopted at no distant period for amending the present system of administering justice in the Colony, I am of opinion that it will not be expedient to promulgate the Ordinance in question.

I am &c.

(Signed) BATHURST.

[Office Copy.]

Letter from EARL BATHURST *to* MAJOR-GENERAL BOURKE.

DOWNING STREET, LONDON, 5th March 1827.

SIR,—I have to acknowledge the receipt of your despatch No. 103 of the 9th of December last, in which you report that you had been under the necessity of dismissing Mr. Baird from

the Office of Deputy Landdrost of Beaufort, and Lieutenant Humphreys from the Command of the Convict Dépôt at Robben Island; and I have to acquaint you that I approve of your having so dismissed those Persons from the Service of the Colonial Government.

I also approve of your having appointed Captain Harding to succeed Mr. Baird, Captain Harker to succeed Captain Harding, and Lieutenant Pedder to succeed Lieutenant Humphreys. I am &c.

(Signed) BATHURST.

[Original.]

Letter from SIR RICHARD PLASKET to R. W. HAY, ESQRE.

CAPE OF GOOD HOPE, *March 5th* 1827.

MY DEAR SIR,—In reply to your letter of the 20th October last, requesting explanation as to the appointment of a Deputy Port Captain with a salary of £135 a year, I have to acquaint you that as early as January 1806, immediately after the capitulation, Sir David Baird appointed Lieutenant Ross Port Captain, and Mr. Doughty Deputy Port Captain. In 1814 Lord Charles Somerset encreased the salary of Deputy Port Captain, then held by Mr. Bridekirk (who had succeeded Mr. Doughty), from 720 to 1,260 rixdollars per annum, but it does not appear from the Records of this Office that any notification of this encrease was made to Earl Bathurst.

The difference between the 1,260 rixdollars and £135, as stated in your letter, arose from fees which had been allowed to Port Captain as well as Deputy Port Captain, but which being contrary to Government Regulations, I had them abolished in the month of January 1826. The Office of Deputy Port Captain was altogether abolished on the appointment of Lieutenant Bance to be Port Captain. I have &c.

(Signed) RICHARD PLASKET.

[Office Copy.]

Letter from EARL BATHURST *to* MAJOR-GENERAL BOURKE.

DOWNING STREET, LONDON, 6th March 1827.

SIR,—I have had under my consideration your dispatch No. 1 of the 3rd of January last, in which you state the nature of the arrangements which you proposed to adopt with the view of establishing a House of Correction for the reception of dissolute Women, and if necessary of vagrant Men.

I very much approve of your determination to use all the means within your power for remedying the evil which must ensue from confining the Women of that description in the Common gaol, and I am glad that the appropriation of a part of the Granary will enable you to accomplish in a great measure the object which you have in view, without entailing any considerable expense. I am, therefore, prepared to authorise you to disburse the sum of Four hundred Pounds for this Service.

I am &c.

(Signed) BATHURST.

[Office Copy.]

Letter from R. W. HAY, ESQRE., *to* SIR RICHARD PLASKET.

DOWNING STREET, 6th March 1827.

MY DEAR SIR,—I beg leave to acknowledge the receipt of your letter of the 10th of January last, and am happy to say that the shipment of Constantia Wine alluded to therein has reached Portsmouth in safety on board His Majesty's Ship *Larne*. Believe me &c.

(Signed) R. W. HAY.

[Original.]

*Letter from MRS. ANN WEBSTER to EARL BATHURST.*201 WHITECHAPEL ROAD. *March 6th 1827.*

MY LORD,—I beg leave to inform your Lordship that W. Dunn Gardener Esqre., Grosvenor Street, recommended me to wait upon your Lordship yesterday to state the particulars respecting my son Godfrey Webster being left at the Cape of Good Hope. In Downing Street I heard it was more regular to write a statement which I beg leave to lay before your Lordship. My son sailed on board the *Woodburn* on the 23rd of May 1826 as mate, they never cast anchor from leaving Falmouth until their arrival at Table Bay, the particulars in the copy of his letter to Mr. Lee, the purport of my application is humbly to request the favour of your Lordship that in case my son should apply to the Governor at the Cape to be sent to England that your Lordship will please to send an order to that effect, which will greatly oblige your Lordship's most humble servant,

(Signed) ANN WEBSTER.

[Original.]

*Letter from CAPTAIN PETER TRIPP to EARL BATHURST.*73 GEORGE STREET, NEW ROAD, *March 6th 1827.*

MY LORD,—Being desirous of proceeding as early as possible to the Cape of Good Hope, I do myself the honor to request your Lordship's sanction to my residence in that Colony.

I beg further to request that your Lordship will allow me to be the bearer of a letter to the Lieutenant Governor of the Cape through which I may be entitled to a grant of land there.

I have &c.

(Signed) PETER TRIPP, Captain $\frac{1}{2}$ pay 74th foot.

[Office Copy.]

Letter from R. W. HAY, ESQRE., to J. C. HERRIES, ESQRE.

DOWNING STREET, 7 March 1827.

SIR,—With reference to my letter of the 16th of December last, enclosing a despatch and its enclosures from Major General Bourke containing explanations on sundry surcharges on the accounts of Sir Rufane Donkin as Acting Governor of the Cape, I am now directed by Earl Bathurst to transmit to you for the consideration of the Lords Commissioners of His Majesty's Treasury a copy of another dispatch which has been received from the Major General enclosing further explanations on the surcharges in question. I am &c.

(Signed). R. W. HAY.

[Original.]

Letter from CAPTAIN PETER TRIPP to EARL BATHURST.

LONDON, March 7th 1827.

MY LORD,—I beg leave to add to the application I had the honor to make to your Lordship in my letter of yesterday for leave to reside at the Cape of Good Hope that I have obtained his Majesty's permission to quit the United Kingdom and to live at the Cape which has been signified to me by his Grace the Duke of Wellington through Lieutenant General Sir H. Torrens by letter of the 3rd Instant. I am &c.

(Signed) PETER TRIPP.

[Office Copy.]

Letter from R. W. HAY, ESQRE., to LORD CHARLES SOMERSET.

DOWNING STREET, 8th March 1827.

MY DEAR LORD,—Having communicated to Major General Bourke your Lordship's suggestion respecting the exchange of situations which it had appeared to you might advantageously

take place between the Reverend Mr. Ireland and the Reverend Mr. Goodison. I beg leave to acquaint you that I have received an intimation from Major General Burke that Mr. Goodison is not disposed to enter into such an arrangement.

I remain &c.

Signed: R. W. HAY.

[Original.]

Application for a Passport.

The bearer, the Revd. Friedrich Gottlob Kayser, a native of Germany, now engaged under the patronage of the Missionary Society, usually called the London Missionary Society, to proceed as the said Society's Missionary to the Colony of the Cape of Good Hope in South Africa, is herewith most humbly recommended to the Respective Authorities for obtaining such passports or other documents, founded upon this official certificate, as will enable him to undertake his intended voyage to the Cape and further to any ultimate place of destination.

London, Missionary Rooms, Austin Friars,
the 9th of March 1827.

(Signed) J. ARUNDEL, for Secretary.

[Office Copy.]

Letter from R. W. HAY, ESQRE., to W. HILL, ESQRE.

DOWNING STREET, 10 March 1827.

SIR, --Thirty Casks of Constantia Wine having arrived at Spithead from the Cape of Good Hope by His Majesty's Sloop *Larne*, for the use of His Majesty, and directions having been given for placing it under the charge of the Officer of Customs at Portsmouth; I am desired by Earl Bathurst to

request that you will move the Lords Commissioners of His Majesty's Treasury to give the necessary instructions for its being forthwith conveyed to the Custom House in London.

I am &c.

(Signed) R. W. HAY.

[Office Copy.]

Letter from R. W. HAY, ESQRE., to MRS. WEBSTER.

DOWNING STREET, 10 March 1827.

MADAM,—I am directed by Earl Bathurst to acknowledge the receipt of your letter of the 6th Instant together with its enclosures and to acquaint you in reply that his Lordship has it not in his power to order a Passage at the Public expense for your Son in the event of his wishing to return home from the Cape of Good Hope. I am &c.

(Signed) R. W. HAY.

[Office Copy.]

Letter from R. W. HAY, ESQRE., to CAPTAIN TRIPP.

DOWNING STREET, 10 March 1827.

SIR,—I have received Earl Bathurst's directions to acquaint you in reply to your applications of the 6th and 7th instant that his Lordship can have no objection to your proceeding to the Cape of Good Hope, but that you would not be entitled to receive a grant of land in that Colony, by reason of your Military rank. Land is granted there to all persons who may have the means of bringing it to Cultivation, and it would not be necessary for you to produce a letter from this office in order to enable you to accomplish your wish of obtaining a grant. I am &c.

(Signed) R. W. HAY.

Printed Circular.

The Editor and Proprietor of the *South African Commercial Advertiser* respectfully inform the Subscribers, that the publication of that Paper is suspended in consequence of the following letter from the Colonial Office :—

COLONIAL OFFICE, March 10, 1827.

SIR,—I am directed by His Honor The Lieutenant Governor, to inform you, that in consequence of a publication in the *South African Commercial Advertiser* of Wednesday the 24th of May last, containing a statement entitled “Mr. Buissinné’s Case,” and which has been represented by His Excellency The Governor Lord Charles Somerset, to be of a false and calumnious nature, His Honor has received Instructions from His Majesty’s Secretary of State for the Colonies, to cancel the Licence under which you are allowed to Print and Publish that Journal.

You will, therefore, from this date consider that Licence as cancelled and of no effect. I have the honor &c.

(Signed) RICHARD PLASKET,
To Mr. G. Greig. Secretary to Government.

The passage referred to is an extract *copied from a London Newspaper (The Times)* of date the 25th of January 1826, which was copied into several English Papers, and has consequently been before the Public uncontradicted for upwards of 14 Months, and of which *no notice has been taken by Lord Charles Somerset in England.*

The Editor of this Paper intends to proceed without delay to London, for the purpose of representing this transaction to the proper Tribunals, and of endeavouring to assist in impressing on the minds of His Majesty’s Ministers, in every way open to him, the propriety of extending the protection enjoyed by British Subjects and British Property in other Parts of the World, to the much wronged, oft insulted, but loyal and peaceable Inhabitants of the Cape of Good Hope.

His success will, he trusts, be hastened by an open expression of what all know to be the secret wish and the earnest desire of every honorable man in the Settlement ; and he has no doubt that the result will prove the truth of what he has so often asserted as his firm belief, that the *present Ministry* are disposed to act with honor, and in the line of justice and benevolence towards their fellow subjects ; and that the latter

have only to furnish them with correct information through the medium of Petitions and Remonstrances.

These for a time must supply the place and perform the duties of the Press. The Colonists should not be cast down or discouraged by the late acts of the Colonial Department. Their vigilance should be increased, and their zeal animated by their injuries. Events are in the hand of Providence, but every man can do his duty. The Editor hopes that in a few months he will be able to appeal to the Public at the Cape, through the columns of the *Advertiser*, for their opinion—whether or not he shall have performed his part. Till then he begs most respectfully to take his leave of them, assuring them that the recollection of their favour, and the regard with which their late spirited conduct has impressed him, will be among his best encouragements in combating the difficulties which may be thrown in his way. Should he fail, others possessing equal courage and greater abilities will, without doubt, rise up to carry forward the Good Cause. For, however much the Enemies of a People's just claims may exult at a temporary check given to their progress, such a contest for Freedom—when once openly begun—is invariably crowned with complete success.

[Original.]

Letter from COMMANDER DOBSON *to* EARL BATHURST.

HIS MAJESTY'S SLOOP *Larne*,
SPITHEAD, 11th March 1827.

MY LORD,—Having been requested by Sir Richard Plasket and the Government at the Cape of Good Hope to ship Thirty Casks of Constantia Wine for the use of His Majesty, I beg to be informed by Your Lordship how or in what manner you may wish to have it conveyed to London. I have &c.

(Signed) W. BURNETT DOBSON, Commander.

[Original.]

Letter from MR. CHARLES D'ESCURY to EARL BATHURST.

CAPE OF GOOD HOPE, 12th of March 1827.

MY LORD,—By one of the latest arrivals in this Colony has been received from England a pamphlet published by Mr. Bishop Burnett, purporting to be a reply to the Report of His Majesty's Commissioners upon his case. In that publication I find to my utter astonishment the most pertinent references made to circumstances in which I have been concerned. Had Mr. Burnett confined himself to remark on the proceedings of the Commissioners in the special enquiry directed by Your Lordship on the Hantam case, I should not have been surprised, they created at the time a strong and general sensation here; but that he should have been able to quote verbatim passages contained in my papers, I cannot possibly comprehend.

I hope that it is not necessary to assure Your Lordship that Mr. Burnett is no acquaintance of mine, so that I would not, under any circumstances, have enabled him, or any one, to publish from my private papers; and I beg most unequivocally to declare upon my word of honor that I can form no idea how Mr. Burnett has obtained the information he has published.

May I trust therefore that this declaration will have the effect of preventing, or otherwise removing, any unfavourable impression the publication alluded to may have made on Your Lordship's mind. I have &c.

(Signed) CHAS. D'ESCURY.

[Original.]

Letter from MAJOR-GENERAL BOURKE to EARL BATHURST.

GOVERNMENT HOUSE, CAPE TOWN, March 13th 1827.

MY LORD,—I have the honor to enclose the copy of a Memorial addressed to me by Mr. Charles Stuart Pillans, merchant in this town, and consignee of the House of Borradaile and Co., praying that five packages of tea shipped in London

for the Cape, and regularly passed through the Excise Office and Custom House there, might be entered for consumption in the Colony. This application was made in consequence of the Collector and Comptroller of Customs here having refused to permit the entry, upon the grounds that to traffic in tea without a licence from the Hon'ble the East India Company is contrary to their Charter, and to the Act of Parliament Geo. 4th Cap. 80, Sect. 9.

Having laid this Memorial, together with a remonstrance of the Agent of the East India Company, against the admission, and other papers on the subject, before the Council, they were of opinion that the tea should be admitted to entry for consumption in the Colony, which I have accordingly directed to be done.

This decision of the Council has been chiefly influenced by the consideration that the question of the legality of exporting tea from London to the Cape of Good Hope had undergone considerable discussion before the Boards of Excise and Customs, and the Lords of the Committee of the Privy Council for Trade, and that the latter had in a letter to the Cape Trade Committee in London, reported the opinion of the two former Boards to be in favor of the lawfulness of this Traffic, which opinion those Boards acted upon by permitting the exportation and granting the certificates and documents required for the purpose; and further that there exists no Colonial Law or regulation opposing the admission of tea under such circumstances. An Extract from the Minutes of Council is enclosed herewith. I have &c.

(Signed) RICHD. BOURKE.

[Enclosure 1 in the above.]

To His Honor Major-General Richard Bourke, C.B., Lieutenant Governor in and over the Settlement of the Cape of Good Hope, Commanding the Forces, &c., &c.

The Memorial of Charles Stuart Pillans for his House of Trade of Messrs. Borradaile Thompson & Pillans, of Cape Town, Merchants, Respectfully Sheweth

That said Borradaile Thompson and Pillans are the Con-

signees of five packages marked as in the margin, and containing tea, which were shipped on board the Brig *Kerswell*, whereof E. S. Armstrong is Master, then lying in the Port of London and bound on a voyage to the Cape of Good Hope.

That upon the arrival of the said Brig in Table Bay, Memorialist applied to the Officers of Customs for the usual permit to land said tea on payment of the proper duties, but which they refused to grant, on the ground that they had some doubts as to the legality of allowing the same to be entered for consumption, but in order to avoid detention to the vessel they proposed that the tea should be landed and deposited in the Custom House Stores, which was accordingly done.

That Memorialist subsequently caused an official demand to be made thro' the Notary Merrington for the delivery of the said five packages on payment of the accustomed duties, to which the Officers of Customs replied "We cannot deliver this tea without the production of a licence from the Honorable East India Company or their authorized Agent or an order from His Honor the Lieutenant Governor," whereupon protest was made as further appears by the annexure No. 1.

That previous to the shipment of the said tea, Abraham Borradaile, Esqre., Chairman of the Cape of Good Hope Trade Committee, received from the Secretary of the Lords of the Committee of Privy Council for Trade a letter (copy of which is annexed No. 2), stating that they had taken the opinion of the Commissioners of Customs and Excise on the subject, and that they saw no legal objection to the exportation of tea from the United Kingdom to the Cape of Good Hope, but that whether such tea could be admitted there for consumption was a point which in their opinion must depend upon the local Regulations established at that place.

That having enclosed said Letter to the Right Honorable Lord Charles Henry Somerset with a request to be informed whether any local Regulations of the Government at the Cape prevent the admission of tea imported from England for consumption, he was favored with the note, copy of which is annexed No. 3, informing him that his Lordship has no hesitation in replying that there is no local regulation at the Cape so far as the Colonial Government is concerned which prevents the admission of tea from England.

That said five packages of tea were duly entered and cleared in the Port of London for exportation, from the warehouse, by the *Kerswell* for the Cape of Good Hope, and bond for such export taken by the Excise, as further appears by the Original Cocket now remaining in the Custom House of this Town, and that the same could not have been so entered and cleared, nor could such bond have been taken, if such exportation had been contrary to law.

That Memorialist is not aware of any local regulation to prevent the admission of the tea in question for consumption, but on the contrary is informed that a quantity of confiscated Hyson tea was sold at the Custom House Stores for consumption in the year 1819, which he presumes could not have taken place if any such regulation had existed.

Wherefore Memorialist prays that your Honor will be pleased to direct the Officers of Customs to deliver said five packages of tea to Memorialist on payment of the legal duties.

And Memorialist as in duty bound will ever pray.

(Signed) CHARLES STUART PILLANS.

[Enclosure 2 in the above.]

OFFICE OF COMMITTEE OF PRIVY COUNCIL FOR TRADE,
20th July 1826.

SIR,—The Lords of the Committee of Privy Council for Trade, having had under their consideration your application on the subject of exporting tea from this Kingdom to the Cape of Good Hope to be there entered for consumption, and their Lordships having taken the opinion of the Commissioners of Customs and Excise thereon, I am directed to acquaint you that the former Board have stated that they see no legal objection to the exportation of tea from the United Kingdom to the Cape of Good Hope, and that the Board of Excise have expressed a similar opinion; but that whether such tea can be admitted there for consumption is a point which must in their opinion depend on the local regulations established at that place. I am &c.

(Signed) THOMAS LACK.

Abraham Borradaile, Esqre.

[Enclosure 3 in the above.]

Mr. Brink presents his compliments to Mr. Borradaile, and having submitted his letter on the subject of the exportation of tea to the Cape of Good Hope to Lord Charles Somerset, is desired to inform him that altho' His Lordship has no hesitation in replying to it that there is no local regulation at the Cape as far as the Colonial Government is concerned which prevents the admission of tea from this Country, yet as the measure is a novel one and might perhaps be at variance with the existing instructions from the Court of Directors to their Agent at the Cape, he has deemed it better to submit for Lord Bathurst's consideration the expediency of ascertaining from the Court of Directors that the measure will not be opposed by their Agent on the spot.

No time will be lost on the receipt of Lord Bathurst's reply in communicating the result to Mr. Borradaile.

48 Lower Grosvenor Street, 27th July 1826.

[Original.]

Letter from LORD CHARLES SOMERSET to R. W. HAY, ESQRE.

March 13th 1827.

MY DEAR MR. HAY,—I received your note of the 10th this morning respecting the proposed tax upon slaves.

If you recollect when I had the pleasure of meeting you in Piccadilly you said you would have a copy of my letter to His Majesty's Commissioners extracted from their appendix, as the only copy I had of it I gave you, as they exacted so strict a secrecy, it was not entered in any book. It appears to me however that the object that I suggested in my letter to you in June last "that it should be submitted to the Council at the Cape" has been attained. I have not seen the Proceedings, nor do I know the results, but Sir John Truter wrote me that the measures had been adjusted, and that Mr. Bigge had been invited to attend the Council during the examination of the evidences, and to put questions to them. When I had

last the pleasure of seeing you in Downing Street, you said it was your intention to read the proceedings of Council as soon as possible, but that you had then not had leisure. I really conceive by the tenor of Sir John Truter's letter that everything has now been done which could enable Lord Bathurst to finally determine on the measure.

In perusing the debates on the Corn Laws, I do not see any mention of any favourable consideration of wheat imported from British Colonies, but I trust that if any indulgence on this head be granted to British America, that the same may be extended to the Cape.

Previous to 1820 (when the Rust had appeared) we could if we had had hands have raised wheat enough to have supplied all England, and should favourable seasons ever return and should we succeed in having a labouring class sent there, wheat might again become a staple commodity of export. At all events I trust that the Cape will share any indulgence that is shewn to other Colonies.

I purpose to return to town on Thursday, and if you thought well of it, would address Lord Bathurst officially on this subject, that is if any indulgence is intended towards British Commerce. Believe me &c.

(Signed) CHARLES HENRY SOMERSET.

[Original.]

Letter from CAPTAIN PETER TRIPP *to* R. W. HAY, ESQRE.

LONDON, *March 13th* 1827.

SIR,—I beg to acknowledge the receipt of your letter of the 10th Instant.

Permit me to enquire whether I shall be entitled through that letter to the rights of burghership, as was the case with the Emigrants of 1819, who I understand were provided with letters from Earl Bathurst for the Governor of the Cape.

I have &c.

(Signed) PETER TRIPP.

[Original.]

Letter from MAJOR-GENERAL BOURKE to EARL BATHURST.

GOVERNMENT HOUSE, CAPE TOWN, 14th March 1827.

MY LORD,—In obedience to the directions contained in Your Lordship's despatch No. 305 of the 12th September last, I desired the Landdrost of Albany in conjunction with a Heemraad to inspect the original Grant of Land made in that District to Lieutenant White, and I now have the honor of transmitting a copy of the report of the Landdrost on the points upon which Your Lordship has expressed a desire to be informed. I have &c.

(Signed) RICHD. BOURKE.

[Enclosure in the above.]

GRAHAM'S TOWN, 30th January 1827.

SIR,—Agreeably to the commands of His Honor the Lieutenant Governor given in your letter of the 29th of December last, I, accompanied by Captain Campbell and Mr. Brown, assistant Surveyor, proceeded on the 25th Instant to the Location of Lieutenant White, which was minutely examined with the view to the framing of the Report I have now the honor to submit. I have &c.

(Signed) W. B. DUNDAS, Landdrost of Albany.

The Honorable Sir Richard Plasket,
Secretary to Government.

Report on the Location granted to Lieutenant White, as one of the British Settlers, drawn up after minute examination by a Commission consisting of the Landdrost of Albany and the Heemraad Duncan Campbell, accompanied by Mr. Brown, Assistant Surveyor, on the 26th of January 1827.

The Location of Lieutenant White consists of one thousand two hundred acres of land, situated at the distance of eighteen miles south-west of Graham's Town, the pasturage thereon

appears of a very inferior nature, being coarse and sour, with the exception of a small quantity of Valley Land east of the house, it is deficient of water, the two small springs which rise on the Farm entirely failing in dry seasons. Lieutenant White appears to have occupied and made considerable improvements on the land. A House of forty five feet in length was built by him, which unfortunately, during his temporary absence, was burnt to the ground. An outhouse of thirty feet frontage, which was occupied until about twelve months ago by a servant of Lieutenant White, is still standing. A banked enclosure of fourteen acres appears to have been cultivated, and a garden of about two acres securely fenced in. There is a well excavated with considerable labour to the depth of sixteen feet, from which the house appears to have been supplied with water.

Having described the location of Lieutenant White as it appears to us, we have now to submit our opinion that much expence and labour have been employed upon it by its proprietor, but that a suitable return never could be expected, as the land cannot be productive under cultivation, nor from its limited extent can a sufficient stock of cattle be kept upon it to supply the wants of a family.

(Signed) W. B. DUNDAS, Landdrost of Albany,
DUN. CAMPBELL.

[Original.]

Letter from JOHN THOMAS BIGGE, ESQRE., to R. W. HAY, ESQRE.

CAPE TOWN, 14th March 1827.

SIR,—In consequence of the wish expressed by Earl Bathurst in a communication dated 30th November 1826, with which I was honoured on the 9th inst., I hasten to inform you that Mr. Gregory, the Secretary of the Commission, will take the earliest opportunity, which the return of His Majesty's ships to their station at Mauritius, or the departure of any vessel from hence may afford, to join my colleagues Major Colebrooke and Mr. Blair. I have &c.

(Signed) JOHN THOMAS BIGGE.

[Original.]

Letter from JOHN THOMAS BIGGE, ESQRE., to R. W. HAY, ESQRE.

CAPE TOWN, 14th March 1827.

SIR,—In consequence of His Majesty's most gracious acceptance of the resignation of the office entrusted to me, a communication of which I had the honor to receive on the 9th inst., I take the earliest opportunity of informing you that I shall continue to make every exertion that my state of health will permit to bring to a conclusion those subjects of inquiry which were left unfinished at the departure of my Colleagues for Mauritius, and as a personal communication with them will be most desirable previous to a transmission of the Reports to England, I trust that Earl Bathurst will not disapprove of my intention to repair to Mauritius if my health should permit at the conclusion of the hurricane season fast expiring, before I avail myself of His Majesty's most gracious acceptance of my resignation. I beg leave to request at the same time that you will do me the favor of conveying to Earl Bathurst the expression of my deep and continued regret that the completion of the important duties of my commission should have been affected by a cause which, altho' accidental in its nature, has I am conscious enfeebled my exertions while it has increased the anxiety I have suffered in the discharge of my public duties.

Altho' my hope of the ultimate tho' perhaps imperfect re-establishment of my health is as great now as at the period in which I last had the honor of addressing his Lordship, yet the same conscientious feeling, which then led me to tender the humble resignation of my office, prevents me now from offering to do more than to complete the subject of inquiry that has occupied my attention since the departure of my colleagues, and to enable them to give it the benefit of their sanction and concurrence before it is submitted to Earl Bathurst's consideration. I have &c.

(Signed) JOHN THOMAS BIGGE.

[Original.]

Letter from MAJOR-GENERAL BOURKE to EARL BATHURST.

GOVERNMENT HOUSE, CAPE TOWN, 15th March 1827.

MY LORD,—In obedience to the instructions contained in your Lordship's despatch of the 3rd December last I have withdrawn the licence under which Mr. George Greig printed and published the *South African Commercial Advertiser*.

Within two days after his paper was thus suppressed, Mr. Greig put out a handbill giving notice that he would publish a list of Advertisements, and applied at the Chief Secretary's Office to be informed whether that publication would require to be stamped. Having thus obtained a knowledge of Mr. Greig's intentions, I desired he should be informed that he could not publish any periodical paper without a licence. A Copy of the Chief Secretary's letter to this effect is herewith enclosed. The next day (the 13th Inst.), Mr. Greig waited upon me to show me the proof sheet of his intended paper, which was regularly numbered, purported to be published on Tuesdays and Saturdays, and bore the same motto as the late *South African Commercial Advertiser*. I informed him in reply to his enquiries, that he should make a regular application for a licence to publish any periodical paper, and that I did not contemplate any objection to granting it in this case, provided he would engage that his list should contain bonâ fide advertisements only, and neither political discussion nor private scandal. Mr. Greig has not made his application nor printed his list.

Upon the same day (13th Instant) I received a Memorial signed by many of the principal Merchants requesting permission to hold a public Meeting "for the purpose of taking into consideration the circumstances attending the suppression of the *South African Commercial Advertiser*, Newspaper. Having laid this before the Council they were of opinion that permission should not be granted, in which I fully concurred for the reasons set forth in the Minute, a copy of which is herewith enclosed.

As I understand that Mr. Fairbairn the Editor of the late *South African Advertiser* is proceeding immediately to London,

for the purpose of presenting a Petition to Parliament complaining of the suppression of his Paper, I have thought it right to take this early opportunity to inform your Lordship of these additional circumstances connected with the suppression of that Print, as they will probably be brought forward also. It should be clearly understood however that Mr. Greig would have met with no difficulty whatever in obtaining a licence to publish his list of Advertisements in the form he proposed, if he had regularly applied for it, and had stated that it was not his intention to introduce any political discussion or remarks on individuals, but to confine his publication to advertisements only. I have &c.

(Signed) RICHD. BOURKE.

[Enclosure 1 in the above.]

COLONIAL OFFICE, 12th March 1827.

SIR,—With reference to the verbal application which you made to me this morning relative to the publication of Advertisements, Sales, &c., I am directed by the Lieutenant Governor to inform you that as your Licence has been withdrawn you cannot be permitted to venture on any publication whatsoever without the previous sanction of His Honor in Council.

You will therefore be pleased to refrain from any such attempt until you shall have received such permission. On your representing to the Lieutenant Governor the nature of the publication you propose, He will submit the same to the consideration of Council. I am &c.

(Signed) RICHARD PLASKET, Secretary to Government.

Mr. George Greig.

[Enclosure 2 in the above.]

See Proceedings of the Council, under date 13th March 1827.

[Original.]

Letter from MAJOR-GENERAL BOURKE to EARL BATHURST.

GOVERNMENT HOUSE, CAPE TOWN, 16th March 1827.

MY LORD,—Your Lordship having directed by your despatch of the 9th February 1825, (No. 142), the compilation of the Laws, Ordinances and public proclamations of a legislative nature, which have been promulgated since the conquest and cession of this Settlement, the preparation of this work was committed to the Chief Secretary Sir Richard Plasket, by His Excellency Lord C. H. Somerset. Sir Richard Plasket has employed one person only, Mr. T. Miller, to assist him in the laborious duty of superintending the compilation, making the indexes and correcting the press, for which as well as for other heavy duty performed in the Colonial Office, this gentleman has received no remuneration. Sir Richard Plasket has now applied to me to allow Mr. Miller the sum of £150 in full for his services for the year 1826, which I have consented to do, hoping that this grant will meet your Lordship's approbation, and that you will be pleased to allow a similar rate of payment whilst Mr. Miller shall remain in his present employment.

The other heavy duties to which I have referred are those of making up the Governor's Schedule and drawing out letters to carry into effect the decisions of Government, as recorded on the Schedule, and the Chief Secretary assures me that if Mr. Miller were not employed by him, he could not get through his duties for one week without some other competent assistance.

He informs me further that there are now two vacancies in his Office, which he has not desired to fill up, as the salaries of £37 10s. per annum for each are too small to obtain the services of any well qualified persons, and it is such, and not the assistance of young copying clerks, that the office requires.

As it is stated in the despatch that some considerable expense must necessarily be incurred in preparing the compilation, your Lordship will probably feel disposed to admit that it could hardly have been executed on cheaper terms than by the employment of Mr. Miller in the manner I have related, as, excepting the cost of printing, no other charge than this allowance to Mr. Miller is to be made for this work; and it is to be observed that the service which this gentleman has

rendered in the Colonial Office has superseded the appointment of two junior clerks, and thus caused a saving on the Establishment of £75 per annum. I have &c.

(Signed) RICHD. BOURKE.

[Original.]

Letter from MAJOR-GENERAL BOURKE to R. W. HAY, ESQRE.

NEWLANDS, CAPE OF GOOD HOPE, *March 16th 1827.*

MY DEAR SIR,—In reply to the observation contained in your letter of the 27th November last referring to the permission granted to Vessels to clear inwards and outwards at the Ports Elizabeth and Frances, I beg leave to state to you the exact circumstances of the case, as you say it is not understood at the Colonial Office.

A Custom House Officer was appointed to Port Elizabeth by the Acting Governor Sir R. Donkin on the 1st October 1821, and one to Port Frances by His Excellency Lord Charles Somerset on the 4th April 1823. In the beginning of 1825 application was made to Lord Charles Somerset by the Inhabitants of those two Ports to trade direct with foreign Countries, and in reporting this circumstance to Earl Bathurst, His Excellency states in his letter of the 31st March 1825 that “he had assented to grant a license to any particular Vessel to trade direct with any particular Port.” In replying to this letter on the 20th August of the same year, Earl Bathurst observes that “as it does not appear that under the existing laws the trade of British Ships from the Cape with any foreign Port is prohibited under certain conditions, His Lordship is not aware that the Governor had any right to limit it by subjecting it to his license.”

Upon finding soon after I took charge of this Government that the trade between Port Elizabeth and the Mauritius was likely to encrease and that the inconvenience of the licensing system, which was still in use, was objected to, I issued a Government Minute (a copy of which is enclosed) giving notice that Vessels might clear inwards and outwards at Ports Elizabeth and Frances. Previously however to taking this

step I consulted with the Collector and Comptroller of Customs in Cape Town and took measures to secure the due collection of the Revenue. A copy of the Collector and Comptroller's letter is annexed. The Ports in question are both within the limits of the Colony as defined by the Governor's Commission.

I believe what I have had to do in this business has been quite regular, but I did not think it of sufficient importance to detail in a despatch. If the appointment of the Officers by the Acting Governor in 1821 and by His Excellency Lord Charles Somerset in 1823 have, as I suppose, been regular also, these Persons are continued in their employments by the 6th Geo. 4th, Cap. 106, Sec. 10. Their salaries are £75 per annum for Port Elizabeth and the same for Port Frances.

I am happy to say the trade of Port Elizabeth is on the increase both coasting and foreign, and I am sanguine enough to hope that the extension of the latter may soon require the appointment of another Officer with a higher salary and the building of a Custom House. For the present however things may remain as they are. I have &c.

(Signed) RICHD. BOURKE.

[Enclosure 1 in the above.]

Government Minute.

His Honor the Lieutenant Governor is pleased to direct, that from and after the Date hereof, all Vessels trading under the Order in Council of 12th July 1820, or under such Orders as may hereafter be issued by competent Authority for regulating the Trade with this Colony and its Dependencies, shall be permitted to enter into, and clear out from, the Ports Elizabeth and Frances, on the Eastern Coast of this Colony, and to land thereat, or embark therefrom, all Goods, Wares, or Merchandize, which may be legally imported into, or exported from, this Colony,—on payment of the established Dues thereon to the Officers of Customs stationed at the aforesaid Ports.

Cape of Good Hope, 26th July, 1826.

By Command of His Honor the Lieutenant-Governor,

(Signed) R. PLASKET, Secretary to Government.

[Enclosure 2 in the above.]

CUSTOM HOUSE, CAPE TOWN, 20th July 1825.

SIR,—In reply to the honor of your letter of the 17th instant, enclosing the intended Minute of Government on the subject of the Ports Elizabeth and Frances, we beg leave to state that after a careful perusal and consideration thereof, we cannot perceive any objection or difficulty in the proposed measure, taking it for granted that His Honor the Lieutenant Governor will be pleased to order sufficient Security to be provided for the punctual remittance of the duties which may be collected in these Ports. We have &c.

(Signed) CHARLES BLAIR, Collector of Customs,
W. WILBERFORCE BIRD, Comptroller of Customs.

The Secretary to Government.

[Original.]

Letter from R. BYHAM, ESQRE., to R. W. HAY, ESQRE.

OFFICE OF ORDNANCE, 16th March 1827.

SIR,—The Master General and Board having had under consideration the subject of Military Buildings and Works of Defence at the Cape of Good Hope, with a view of fixing what ought to be in time of Peace the proportion of accommodation for the Troops, at what points provided, and what Military Buildings and Works of Defence ought to be kept up as permanently required, and what might, with perfect safety and considerable diminution of expence, be entirely dismantled and put down ; and His Grace and the Board being of opinion, with respect to fortifications, that nothing of a temporary nature, or constructed with a view to circumstances of the moment now gone by, ought to be kept up.

I have the honor to acquaint you, for Earl Bathurst's information, that according to the principle above adverted to, the Master General and Board have given orders for dismantling

the following batteries, posts and works of defence, with the exception of such as are of masonry, viz. :

The Battery and work at Camp's Bay Kloof,

Three Anchor Bay Battery,

The Kyk in de Pot Redoubt,

The Amsterdam Battery,

The Rogge Bay Battery,

The Lines in front of the Town with the exception of Fort Knock on the left flank, and the block-houses and batteries (of masonry) on the Devil's Hill on the right flank,

The Block-house and battery at Hout Bay,

The Barrack and everything at Muysenberg,

The Groote Mouille Battery.

The Master General and Board at the same time request that instructions may be sent out to the Colonial Government at the Cape not to sell or grant to individuals any of the land on which the several works alluded to are situated. It appears that most of them are on barren and rocky situations, but if once possessed by individuals, and required at any future period to be re-occupied, they would probably be very highly valued.

His Grace and the Board further direct me to state their opinion that it would be highly advantageous to His Majesty's service if a Circular Letter was transmitted from Earl Bathurst's office to all Governors generally, directing them not to alienate or grant any ground, the property of the Crown, within a certain distance of any fort, barrack, magazine, or military establishment, without a previous reference to the Master General and Board, accompanied by a sketch and Report from the Commanding Engineer at the station.

Upon the subject of Military Buildings, Magazines, &c., at the Cape, the Master General and Board are desirous of forming a definite opinion as to what buildings it may be advisable to retain and keep in repair, and what further buildings should be transferred to the Ordnance to meet the wants of the Service ; and upon this head His Grace and the Board have had under consideration,

1st. A Correspondence which has taken place between the respective officers of Ordnance at the Cape and the Military Secretary, arising out of a refusal of the Ordnance Storekeeper

to make payments for repairs to Commissariat Storehouses and for other services at Graham's Town which had not been sanctioned by the Board ; and as there appears to have existed a good deal of confusion as to what buildings are required at that Post and should be taken care of by this Department, the Master General and Board, with a view of coming to some arrangement in this particular, have ordered the Military Buildings at Graham's Town to be surveyed, and a Return of them transmitted, in order that it may be ascertained what are necessary for the Troops, as this Department can have nothing to say to any others.

2ndly. A Communication dated 14th July 1824, from the Lords Commissioners of His Majesty's Treasury, inclosing copies of letters which have passed between the Deputy Commissary General at the Cape and the Civil Authorities, by which it appears that the Governor claimed the storehouses occupied by the Commissariat near the wharf at Cape Town, for the use of the Colonial Government, proposing as it is stated to construct a Grammar School on the site of those buildings ; but that the Governor waved the said claim upon condition that 3,000 rixdollars should be paid annually to the Colonial Treasury, and that the buildings should be put into thorough repair and kept so ; and their Lordships in transmitting the before-mentioned papers, (copies of which are inclosed) refer to a letter from the Treasury to Mr. Wilmot Horton upon this subject. The Master General and Board do not think it necessary to advert at any length to the selection of this sandy spot between the shingle and the shambles as a place for a Grammar School, as it appears to have been readily abandoned on the prospect of obtaining £600 per annum currency. But they think it right to state, that they understand these Government Buildings (styled Colonial) for which this large rent is asked, were when the British Forces were at the Cape before the Peace of Amiens, occupied by the Commissariat and by the Quarter Master General's Department with camp equipage, intrenching tools, &c. In 1806, when the place was recaptured, these buildings were again occupied by the Military Departments as being the property of the Crown. The claim now advanced of a rent to be credited to the Colonial Government is a transaction of so extraordinary a description

that the Master General and Board, not being aware of any Colonial Assembly or Chartered Company at the Cape having a power to lay on taxes or to distribute Public Buildings for public purposes on payment of a rent by the Mother Country to be applied to Colonial purposes, they cannot for a moment suppose such an extraordinary claim can be persisted in. His Grace and the Board, I am to add, have directed inquiry to be made in order to ascertain whether the buildings above-mentioned are now wanted for Military purposes, concluding that in the event of their being so wanted, the premises will be transferred to the Ordnance *without paying Rent*; and should they not be so required, no payment will of course be made by this Department either for the rent or repair of buildings not occupied for military purposes.

The Master General and Board request you will submit this case to Earl Bathurst for His Lordship's consideration; begging permission to remark that these very extraordinary pretensions greatly add to the difficulty which this Department experiences in carrying into effect the arrangements assented to between the two Departments.

3rdly. A correspondence relating to the sale of part of Scott's Barracks at Graham's Town, copies of which are inclosed. The Master General and Board beg to observe hereon that these barracks appear to have been partly built out of the extraordinaries of the Army, and partly out of the Colonial Treasury.

In consequence of the representations of the Ordnance at the Cape, the sale only of the officers' barracks, kitchens, and stabling (all of which are stated to have been in a very dilapidated state) has actually taken place, viz. on the 10th February 1826. The respective officers are directed by the Military Secretary's Letter of the 20th April 1826 to request the Master General and Board's permission to sell the remainder, which appears to consist of a Powder Magazine, storehouses, an Artillery Barrack, and other Buildings. The Colonial Authorities do not seem to have entertained a doubt as to the propriety of their proceedings; and there is attached to the last letter from the respective officers an Advocate's opinion stating that the Ordnance have no right to prevent any further sale, but would be entitled to compensation for the buildings.

It is at the same time to be observed that as Major-General Bourke's letter to Earl Bathurst dated 24th October 1826 (a copy of which accompanied your letter to Mr. Hill of the Treasury dated the 8th January last, and upon which papers a reference has been made to this Department) there is a statement of the whole of the monies expended by the Colonial Treasury at Graham's Town for Military Buildings during the last ten years, the amount of which is only 5,775 rixdollars currency or £434 2s. 6d. ; it would therefore appear that the Colonial Treasury could not have required the immediate sale of those barracks to reimburse any very heavy expenditure. The Master General and Board however remark that as a transfer of part had already been made to the Ordnance, and the whole of the Establishment was about to be reconsidered, it is to be lamented that the Colonial Authorities did not delay disposing, at any rate, of the ground on which the Officers' Barracks were situated, until the Master General and Board should have, in concert with the Secretary of State, decided as to what buildings or military defences were to be kept up, according to the 4th Article of Paper A, dated January 1826, transmitted to this Office in Mr. Wilmot Horton's letter of 11th April 1826 ; and they beg again to be permitted to remark that this system greatly embarrasses this Department in its arrangements in the Colonies.

With respect to the Advocate Mr Cloete's opinion, and the right which he considers inherent in the Colonial Government as owners of the soil on which Scott's Barracks are situated, it seems to this Department that he has taken an erroneous view of the question. The Master General and Board submit that it is a maxim almost without exception that buildings constructed by a tenant belong to the Lord of the Soil, and give the tenant no claim to the ground on which they stand. But, in the case in question, the Lord of the Soil and the tenant who constructed the buildings is one and the same person. The soil does not belong, as Mr. Cloete supposes, to the Colonial Government, but (in the Master General and Board's view) to the King, not to the Servants of the Crown, but to the Crown itself. The buildings it is presumed are all equally the property of the King, whether constructed from the Army Extraordinaries or the Colonial Revenues, and the

Master General and Board therefore presume that the Colonial Servants ought not to sell or to dispose of, in any way, buildings which have been constructed for military purposes or applied to military uses, without a reference to England and to that Department which has the charge of constructing and keeping all military works in repair. They consequently request that orders may be given to rectify proceedings of so erroneous a nature, and to prevent the recurrence of them.

A question having arisen, in the correspondence which has passed upon this subject, whether it would not be expedient that the Ordnance should be in possession of the Title Deeds of the land on which the buildings and military establishments transferred to this Department are situated, it appears to the Master General and Board, upon considering this matter, that under the peculiar circumstances of the Cape, and the whole of the ground, not granted to individuals, being the property of the Crown, Title Deeds (as required in England and in Colonies having chartered Governments and where the King has parted with his rights to the Soil) are not required ; and that the expence and trouble which would be thereby occasioned both to the Ordnance and the officers of the Civil Government at the Cape, may be saved. It is however to be remarked that the sale at Graham's Town of part of Scott's Barracks, and the proposed disposal of the remainder (had the respective officers not made their representations) affords an instance of the propriety of this Department having some security for the tenure of the Land on which they may construct or repair buildings in future ; and that the claim for the Commissariat Storehouses at Cape Town, as preferred by the Colonial Government, may be adduced as another instance upon this head. The Master General and Board request the Secretary of State to give such orders on all these points to the officer who, under his orders, administers the King's Government at the Cape, as will prevent a recurrence of similar difficulties.

It appearing that the Ordnance Storekeeper at the Cape has from time to time been called upon by the Governor to pay for articles provided for the Signal Posts, I am directed to state that the Master General and Board are of opinion that expences for the service of the Signal Stations, not being within fortified places, should not fall upon this Department ;

and in transmitting herewith an extract from a Report upon this subject, from Major General Sir James Carmichael Smyth, of the Corps of Royal Engineers, I am to add that His Grace and the Board have ordered that expences of the nature referred to be not admitted in the Ordnance Accounts.

I have &c.

(Signed) R. BYHAM.

[Enclosure 1 in the above.]

COMMISSARIAT, CAPE OF GOOD HOPE,
CAPE TOWN, 4th January 1824.

SIR,—Having been called upon, as per annexed copy of a letter from the Military Secretary No. 1 under date Newlands the 28th August 1823, to evacuate and give up certain public premises, stated to be Colonial property, situated near the Landing Place in Cape Town, and which have been in the possession of the Commissariat since the capture of the Colony in 1806, as magazines for containing the supplies of the Army, I have the honor to enclose for the information of the Right Honorable the Lords Commissioners of His Majesty's Treasury copies of a correspondence which I have had with the Military Secretary upon this occasion. My Lords will perceive in reference to the concluding letter from that officer, No. 5, that the Colonial Government have acceded to the proposal submitted to His Excellency the Commander of the Forces in my letter No. 4, which proposition viz. of paying rent I was induced to make to enable me under the circumstances stated therein to keep possession of the buildings.

The rent required by the Colonial Government of rixdollars 3,000 or about £230 per annum as one of the two conditions of retaining possession, considering the extent and convenient situation of the premises, is reasonable, as their repair however, the second condition, which is indispensably necessary to their preservation and for that of the stores they contain, will come heavy, it is my intention to request previous to that part of the stipulation being carried into effect that an estimate of the expense be prepared and submitted for their Lordships' consideration and approval.

The very large sums that have been sunk by His Majesty's Government in this Colony in the hire, since its capture, of Private Magazines render it highly desirable that a building, the property of Government adapted for a Commissariat Depot should be permanently transferred to the Department; the Public Premises now in question, of which a plan shall be submitted to my Lords at the same time with the Estimate of Repairs, I beg to state can with some addition and alteration be made sufficiently capacious for this purpose, rendering unnecessary during a period of Peace the addition of hired stores; a part can also be converted into an office causing a further saving of expence, the offices for the Department being in hired premises. The Colonial Government I have understood estimate the value of these buildings in their present state at Rixdollars 30,000, about £2,250, which sum if the claim to the same as Colonial property and the right on the part of the Colony of exacting 3,000 Rixdollars per year for their occupation by the Commissariat is admitted, will have been paid by His Majesty's Government in rent, besides the additional sum that must be disbursed for their repair in ten years; how far in this case it may be considered desirable at once to purchase the premises for that sum is a point I do myself the honor to submit to their Lordships' consideration.

I have &c.

(Signed) W. HEWETSON.

The Secretary of the Treasury, London.

[Enclosure 2 in the above.]

NEWLANDS, August 28th 1823.

SIR,—The Commanding Engineer having reported to His Excellency the Commander of the Forces the dilapidated state of the Store near the wharf which was temporarily appropriated by the Colonial Government to the Military Department, and having also reported the very serious expence that would be incurred in repairing it, I am directed by His Excellency to inform you that he has deemed it expedient to make this building over to the Colonial Government again, rather than incur the large expence of repairing it.

His Excellency trusts that the accommodation hitherto afforded by this building may be dispensed with, but if not, His Excellency desires that you will provide for the accommodation that may be still required with the utmost attention to economy. I have &c.

(Signed) G. J. ROGERS, Military Secretary.

Wm. Hewetson, Esqre.,
Assistant Commissary General.

[Enclosure 3 in the above.]

COMMISSARIAT, CAPE OF GOOD HOPE,
CAPE TOWN, 30th August 1823.

SIR,—I have the honor to acknowledge the receipt of your letter of the 28th instant acquainting me that His Excellency the Commander of the Forces deemed it expedient to make over to the Colonial Government the Public Magazines near the wharf occupied by the Commissariat for the service of the Army, and further stating that His Lordship trusts the accommodation they afford may be dispensed with, I am sorry to add in reply that in carrying His Excellency's directions into effect I should be under the necessity of hiring in the Town, magazines to nearly an equal extent, the service not permitting me to dispense with so large a proportion of storeroom as the buildings in question afford.

I beg leave on this occasion, in further reference to your communication, to be allowed to bring under His Excellency's notice that these buildings have been invariably appropriated to the Army, as Commissariat Magazines, as well during the first occupation of the Colony by the British, as since its second capture in 1806; and being considered exclusively military, the expence of the repairs that have been made from time to time, defrayed from the Military Chest; indeed as a dépôt, particularly in cases of war, no situation can be more favorable, their contiguity to the wharf, the citadel, and barracks affording every facility to receiving and issuing Military supplies, and being moreover distinct from any other building the stores are less susceptible of loss by robbery or fire.

With these advantages in view, it was my intention to have requested His Excellency to allow a survey to be taken of the buildings, and an estimate to be made of the expence for their thorough repair, including therein some addition and alteration which if approved would enable me to give up the two hired stores for which the Public are now paying Rent, thereby securing to the Military Branch of the service, concentrated in an advantageous situation, Government Magazines in every point of view adapted for Commissariat purposes, in contrasting which with the expence, risk and inconvenience attendant in appropriating hired private Buildings for Magazines, and considering that the annual store rent the Public will in such case have to pay must in course of a few years exceed the expence of their repair, I trust His Excellency may yet deem the proposition for their repair &c. a measure deserving further consideration. I have &c.

(Signed) Wm. HEWETSON,
Assistant Commissary General.

Major G. J. Rogers, Military Secretary.

[Enclosure 4 in the above.]

MILITARY SECRETARY'S OFFICE, *December 8th* 1823.

SIR,—I am directed by His Excellency the Commander of the Forces to transmit to you the enclosed Letter from the Colonial Secretary, and to desire that the necessary arrangements may be made for carrying into execution the orders contained in it. I have &c.

(Signed) CHAS. AUGUSTUS FITZROY,
Military Secretary.

Wm. Hewetson, Esqre.,
Assistant Commissary General.

[Enclosure 5 in the above.]

COLONIAL OFFICE, *4th December* 1823.

SIR,—His Excellency the Governor has directed me to communicate to you that the necessity of allotting spacious and airy premises to the important object of the Grammar School

in Cape Town, has rendered it imperative upon him to require the Assistant Commissary General to evacuate and give up the Colonial Premises and Buildings occupied by that Department in Strand Street; I am therefore to request you may be pleased to give notice to the Assistant Commissary General to that effect. I have &c.

(Signed) C. BIRD.

Charles Augustus FitzRoy, Esqre.,
Military Secretary.

[Enclosure 6 in the above.]

COMMISSARIAT, CAPE OF GOOD HOPE,
CAPE TOWN, 13th December 1823.

SIR,—I have the honor to acknowledge the receipt of your communication of the 8th Instant transmitting me by order of His Excellency the Commander of the Forces a letter under date the 4th addressed to you by the Colonial Secretary, stating that the necessity of allotting spacious and airy premises to the important object of the Grammar School in Cape Town has rendered it imperative to require that the Commissariat should evacuate and give up the premises and buildings in Strand Street occupied by the Department for the service of the army.

In my letter to the late Military Secretary under date the 30th August last upon this subject, I did myself the honor to point out for His Excellency's information, the many advantages these premises and their situation possess for a Commissariat Dépôt, and the serious inconvenience that will be occasioned to the Public Service if given up, indeed I consider their being retained for the use of the Army of that consequence to the Military Service, that I am induced to take the liberty of submitting to His Lordship the practicability of obtaining other buildings fit for the purpose of a Grammar School, the Commissariat retaining the Premises in question, paying a rent proportionate to what may be their fair valuation; should this suggestion be compatible with the views of the Colonial Government and with His Excellency the Commander of the Forces' approbation, I would further submit that a plan of the premises in their present state be made, and

adverting to my former communication upon this subject, an estimate framed of the expence of their thorough repair, to include therein the additions and alterations proposed, to be submitted together with these particulars for the consideration of the Right Honorable the Lords Commissioners of His Majesty's Treasury. I have &c.

(Signed) Wm. HEWETSON,
Assistant Commissary General.

Captain Charles Augustus FitzRoy,
Military Secretary.

[Enclosure 7 in the above.]

MILITARY SECRETARY'S OFFICE, *December 29th 1823.*

SIR,—I am directed by His Excellency the Commander of the Forces to transmit to you the accompanying letter from the Colonial Secretary respecting the Rent you are required to pay for the Colonial Buildings occupied by your Department in Strand Street, and I am desired to state His Excellency's approval of the same. I have &c.

(Signed) CHS. AUGS. FITZROY,
Military Secretary.

Wm. Hewetson, Esqre.
Assistant Commissary General.

[Enclosure 8 in the above.]

COLONIAL OFFICE, *24th December 1823.*

SIR,—His Excellency the Governor having had under his consideration the letter addressed to you by the Assistant Commissary General Mr. Hewetson on the subject of the Colonial Buildings near the Wharf, I am directed to request you will communicate to the Assistant Commissary General that as he states these buildings to be of such importance to the Commissariat Department, His Excellency will be induced to meet his wish to be allowed to retain them, provided he agrees

to pay rent for them at the rate of three thousand rixdollars per annum (the lowest price at which a substitute can be obtained), and provided he undertakes to put the Buildings in repair and keep them so. I have &c.

(Signed) C. BIRD.

Captain FitzRoy, Military Secretary.

[Enclosure 9 in the above.]

OFFICE OF ORDNANCE,
CAPE OF GOOD HOPE, 6th May 1826.

SIR,—We have the honor to enclose a copy of a correspondence which has passed between us and the Commander of the Forces, relative to the disposal by the Colonial Government of the Barracks at Graham's Town known by the name of Scott's Barracks.

It appears that the Colonial Government is very anxious to sell the whole of this establishment, in consequence of the greater part, which was erected by contract under their direction, having fallen into a dilapidated state; but as some other part of the buildings was erected for the accommodation of the Ordnance Service at the expense of the Military Departments in consequence of orders conveyed by Lord Charles Somerset to the Commandant of the Frontier, Lieutenant Colonel Scott, 6th Regiment, in a letter to him from the Military Secretary, dated 17th May 1822 (as appears by a report dated 4th March 1823 from Lieutenant Rutherford, the Resident Engineer on the Frontier, to Major Holloway, the Commanding Engineer), and in conformity to a special warrant dated 19th June 1823 amounting to £791 8s. 3d., addressed by His Lordship to the Commanding Engineer, we have thought it right to protest against the sale of that portion of the establishment which by the plan and documents laid before us by Major Holloway appears to have been defrayed out of the extraordinaries of the Army.

It is only necessary for us to add that copies of the plan, estimate, and warrant, were transmitted to the Inspector General of fortifications by Major Holloway under date 26th

and 27th June 1823, and a further communication made on the same subject by that officer to General Mann, agreeably to the directions of the Commander of the Forces on the 2nd July 1823. We have &c.

(Signed) W. CARY, Lieutenant Colonel Commanding
Royal Artillery,
W. C. E. HOLLOWAY, Major and Com-
manding Royal Engineers,
W. LAWSON, Ordnance Storekeeper,
TIMOTHY CAFFYN, Deputy Storekeeper.

To Wm. Griffin, Esqre.

[Enclosure 10 in the above.]

OFFICE OF ORDNANCE,
CAPE OF GOOD HOPE, 23rd February 1826.

SIR,—We have the honor to enclose, to be submitted to His Excellency the Commander of the Forces, an extract of a letter received by last post from the Ordnance Officer at Graham's Town; and as it appears from the plan of Scott's Barracks and other documents which the Commanding Royal Engineer at our request has laid before us that a considerable part of the premises which are stated to have been sold by the Colonial Government has been erected at the expence of the Military Department by the Engineer Department and consequently belong to the Ordnance (His Excellency's Warrant for the service being dated 19th June 1823), we request His Excellency will be pleased to inform us what steps we are to take under the circumstances set forth. We have &c.

(Signed) W. CARY, Lieutenant Colonel Commanding
Royal Artillery,
W. C. E. HOLLOWAY, Major and Com-
manding Royal Engineers,
W. LAWSON, Ordnance Storekeeper,
TIMOTHY CAFFYN, Deputy Storekeeper.

To Lieutenant-Colonel FitzRoy, Military Secretary.

[Enclosure 11 in the above.]

Extract of a letter dated 14th February 1826 received from the Ordnance Officer at Graham's Town.

"I have to inform you that the Buildings containing the Barrack and Ordnance Stores have been sold by the Colonial Government, and the keys required to be given up next month.

"I have to request your authority for to accept a Tender which was given in on the 10th Instant, when contracting through the Commissariat Department agreeable to Public Advertizement for the hire of quarters for the Troops of the Line for the year 1826, of the House of J. Bartram which will answer the purpose for Ordnance and Barrack Store-room, at £9 per month."

[Enclosure 12 in the above.]

OFFICE OF ORDNANCE,

CAPE TOWN, 2nd March 1826.

SIR,—Not having received His Excellency the Commander of the Forces' directions on the subject of our letter to you dated 23rd ultimo, we have the honor to state that as the purport of it does not admit of delay we have addressed a letter to the Resident Engineer and Barrack Master at Graham's Town, of which we beg to enclose a copy dated this day, and we trust it will meet His Lordship's approbation.

We have &c.

(Signed) W. CARY, Lieutenant Colonel Commanding
Royal Artillery,
W. C. E. HOLLOWAY, Major and Com-
manding Royal Engineers,
W. LAWSON, Ordnance Storekeeper,
TIMOTHY CAFFYN, Deputy Storekeeper.

Lieutenant-Colonel FitzRoy,
Military Secretary.

[Enclosure 13 in the above.]

OFFICE OF ORDNANCE,
CAPE TOWN, 2nd March 1826.

GENTLEMEN,—With reference to an extract of a letter dated 14th ultimo, which we have received through the Storekeeper from the Barrack Master at Graham's Town, we have to inform you that if Mr. Griffiths alludes to Scott's Barracks there is a portion of those premises which was built by the Engineer Department at the expence of the Military Branch of the service, and which consequently belong to the Ordnance, the same is fully set forth in a Plan received by the Commanding Engineer from Lieutenant Rutherford, Royal Engineers, enclosed in a letter from him dated 4th March 1823, as well as in the Estimate for the service and the Warrant of the Commander of the Forces dated 19th June 1823. Copies of these Documents will of course be in the Engineer Office at Graham's Town, and it will be seen that the Ordnance Property herein referred to consists of Artillery Barracks, Powder Magazine, Storehouses &c.

We have therefore to state that you are on no account to give up the keys of these storehouses &c. without an express written order from the Commandant of the Frontier, with whom you will communicate and represent the responsibility of such measure, since we have every reason to believe the Master General and Board of Ordnance will not consent to the sale of Ordnance Property but under their orders.

We beg to add that we have reported to the Commander of the Forces the circumstance in a letter to the Military Secretary dated 23rd ultimo, and as soon as we receive His Excellency's directions we shall communicate the same to you. We are &c.

(Signed) · W CARY, Lieutenant Colonel Commanding
Royal Artillery,
W. C. E. HOLLOWAY, Major and Command-
ing Royal Engineers,
WM. LAWSON, Ordnance Storekeeper,
TIMOTHY CAFFYN, Deputy Storekeeper.

To the Resident Engineer and Barrack Master,
Graham's Town.

[Enclosure 14 in the above.]

MILITARY SECRETARY'S OFFICE, 15th March 1826.

GENTLEMEN,—I am directed by His Honor Major General Bourke Commanding the Forces, to acknowledge the receipt of your letter of the 23rd ultimo addressed to Lieutenant Colonel Fitzroy, and to inform you that upon reference to the Documents cited therein, and upon inspection of a Plan of Scott's Barracks furnished by the Commanding Royal Engineer, the Major General perceives that some part of this Barrack has been erected at the expence of the Military Department, a circumstance which His Excellency Lord Charles Henry Somerset was not aware of, at the time he directed them to be sold on account of the Colonial Government; admitting therefore the claim of the Ordnance to the part of the Barrack erected at the expence of the Military Department, the Major General still conceives it to be expedient that the whole of Scott's Barracks should be sold, as they are in a ruinous condition and not capable of being repaired but at an expence equal to the erection of a new building, and the parts built at the expence of the Colony, and those afterwards erected by the Ordnance are so intermixed that it is not possible to make sale of them separately. That part which the Ordnance claim can however be valued, and on the completion of the sale of the whole the amount of such valuation will be handed over to the Ordnance by the Colonial Government. This appears to the Major General to be the only practicable mode of reconciling the claims of the Colony and the Ordnance, and as it is quite desirable that the sale of the Barracks should proceed without further loss of time, he recommends to the Board of Respective Officers to name some person in Graham's Town on their part, to meet one to be named by the Colonial Government for the purpose of valuing the Premises in question.

I have &c.

(Signed) M. RYAN, Military Secretary.

The respective Officers of the Ordnance.

[Enclosure 15 in the above.]

OFFICE OF ORDNANCE,
CAPE TOWN, 16th March 1826.

SIR,—We have the honor to acknowledge the receipt of your letter dated 15th Instant, and to acquaint you that in consequence of the directions of His Honor the Major General Commanding we have appointed the Resident Engineer and Barrack Master at Graham's Town to meet on the part of the Ordnance the person who may be appointed by the Colonial Government to calculate the value of the Ordnance part of Scott's Barracks.

We beg to observe that by our Instructions we are under the necessity of nominating both the officers herein mentioned.

We feel it however a duty absolutely incumbent upon us to state respectfully that the Orders of the Master General and Board of Ordnance to us on the subject of their buildings and property are extremely precise, and require us to guard to the utmost of our power against any transfer or alienation of any part thereof. We cannot but express our regret that time sufficient for a reference home, before the premises are finally ceded, cannot be afforded. We have &c.

(Signed) W. CARY, Lieutenant Colonel Commanding
 Royal Artillery,
 W. C. E. HOLLOWAY, Major Commanding
 Royal Engineers,
 WM. LAWSON, Ordnance Storekeeper,
 TIMOTHY CAFFYN, Deputy Storekeeper.

Major Ryan, Military Secretary.

[Enclosure 16 in the above.]

OFFICE OF ORDNANCE,
CAPE TOWN, 30th March 1826.

SIR,—We have the honor to annex for the information of His Honor the Major General Commanding an extract of a letter dated 18th Instant which we have received from the Resident

Engineer and Barrack Master at Graham's Town, stating that no part of the buildings at Scott's Barracks appertaining to the Ordnance had been sold. It will not therefore we conceive be necessary to nominate persons to make a valuation of the property in question as had been proposed. We have &c.

(Signed) W. CARY, Lieutenant Colonel Commanding
Royal Artillery,
W. C. E. HOLLOWAY, Major Commanding
Royal Engineers,
WM. LAWSON, Ordnance Storekeeper,
TIMOTHY CAFFYN, Deputy Storekeeper.

Major Ryan, Military Secretary.

[Enclosure 17 in the above.]

Extract of a letter dated 18th March 1826 received from the Resident Engineer and Barrack Master at Graham's Town.

Lieutenant Griffith, Barrack Master, has to state to the Respective Officers that in his letter addressed to Mr. Lawson, Ordnance Storekeeper, reporting the sale of the Buildings in the Scott Barrack, which contained the Barrack and Ordnance Stores, and that the key of them would be required to be given up on 1st March, that he alluded to the rooms which had been the Officers' kitchens in the Scott Barrack, and which had previous to his taking charge of the Department been occupied as the temporary store rooms containing the stores of the Barrack and also a portion of the Ordnance Department which could not for want of room be placed in the store attached to the Artillery Barracks.

We have the honor to state therefore that not any property belonging to the Ordnance Department was sold on the 10th ultimo by the Landdrost of the District, the portion of the Scott Barrack sold on that occasion did only consist of the quarters formerly occupied by the officers, including the kitchens and stabling in their rear.

[Enclosure 18 in the above.]

MILITARY SECRETARY'S OFFICE, 14th April 1826.

GENTLEMEN,—I am directed by the Major General Commanding the Forces to inform you that the Colonial Government find it absolutely necessary to proceed immediately with the sale of the Barracks in Graham's Town called Scott's Barracks, a small part of which appears to have been erected by the former Barrack Department upon ground belonging to this Government, and which has never been leased or granted in any manner. As the buildings are much intermixed, the Colonial Government proposes to sell the whole together, and hand over to the Ordnance the amount at which the Buildings erected by the Barrack Department may be valued, or otherwise to endeavour to sell each separately ; but it is evident from an inspection of the plan that it would be impossible for any purchaser to occupy one property without possessing himself at the same time of the other, as in some places the walls of the same building appear to have been built partly by the Colony and partly by the Barrack Department.

The Major General requests you will enable him to state, with as little delay as possible to the Colonial Government, which of the two arrangements now proposed is most likely to be acceptable to the Board of Ordnance. The Colonial Government would gladly defer the sale to give time to communicate with the Board on this subject, if the ruinous condition of the Buildings, threatening by their fall to render the materials useless, did not make it plainly the interest of both parties to conclude the sale before the Winter. I have &c.

(Signed) M. RYAN, Military Secretary.

The respective Officers of the Ordnance.

[Enclosure 19 in the above.]

OFFICE OF ORDNANCE,

CAPE TOWN, 18th April 1826.

SIR,—We have the honor to acknowledge the receipt of your letter dated 14th Instant, and in reply beg respectfully to state for the information of His Honor the Major General

Commanding that the orders and intentions of the Master General and Board of Ordnance on the subject of alienating property appertaining to, or built by, the Department are so clearly defined that we cannot incur the responsibility of being accessory to the disposal of the portion of Scott's Barracks at Graham's Town which has been constructed at the expence of the Ordnance without the previous sanction of the Board.

We have &c.

(Signed) W. CARY, Lieutenant Colonel Commanding
Royal Artillery,
W. C. E. HOLLOWAY, Major Commanding
Royal Engineers,
WM. LAWSON, Ordnance Storekeeper,
TIMOTHY CAFFYN, Deputy Storekeeper.

Major Ryan, Military Secretary.

[Enclosure 20 in the above.

MILITARY SECRETARY'S OFFICE, 20th April 1826.

GENTLEMEN,—Having submitted your letter of the 18th Instant to the Major General Commanding the Forces, I am directed to desire that you will be pleased to communicate by the earliest opportunity to the Board of Ordnance the contents of his letter of the 14th Instant and request their approval of the sale of the portion of Scott's Barracks at Graham's Town which has been constructed at the expence of the Ordnance.

I have &c.

(Signed) M. RYAN, Major and Military Secretary.

To the Respective Officers of the Ordnance.

[Enclosure 21 in the above.]

OFFICE OF ORDNANCE,
CAPE OF GOOD HOPE, 13th May 1826.

SIR,—With reference to the communications which we had the honor to make to you under date the 6th Instant, covering a correspondence on the subject of the sale by the Colonial

Government of Scott's Barracks at Graham's Town, and of the desire expressed by the Lieutenant Governor that the portion which was erected at the expence of the Military Department should also be disposed of, we beg to state that it has become necessary for us to ascertain the opinion of a person of the Law as to the right of the Ordnance Department, under the provision of the Master General and Board's order dated 26th August 1790 for perambulating their Boundaries, and as we think it may be satisfactory to the Honorable Board to be possessed of the opinion delivered by the Advocate whom we have employed, we beg leave to enclose a copy of Mr. Cloete's letter dated 8th Instant. We have &c.

(Signed) W. R. CARY, Lieutenant Colonel Com-
manding Royal Artillery,
W. C. E. HOLLOWAY, Major Commanding
Royal Engineers,
WILLIAM LAWSON, Ordnance Storekeeper,
TIMOTHY CAFFYN, Deputy Storekeeper.

Major M. Ryan, Military Secretary.

[Enclosure 22 in the above.]

CAPE TOWN, 8th May 1826.

GENTLEMEN,—Having examined the documents and the correspondence relative to the expence incurred by the former Barrack Department in the construction of part of the Military Barracks at Graham's Town known by the name of Scott's Barracks, it appears to me beyond a doubt that all the expence incurred as well in the first construction as in the subsequent repairs of these buildings does not justify the inference that the property itself was to devolve to the present Board of Ordnance :—

1st, Because the soil itself upon which these buildings were constructed belonging to the Colonial Government, it is a rule of our law that all erections upon the same do not confer a title to the land, but the buildings would revert to the Government as the owner of the soil ;

2nd, Because there does not appear from the documents I
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perused the slightest will of the Colonial Government even by inference to justify the supposition that the Government wished to transfer over the property ; and

3rd, It clearly appears from the mode of constructing these buildings (the work done at the expence of the Barrack Department having been intermixed with that performed at the expence of the Colonial Government) that this expenditure was merely entailed upon the Barrack Department to relieve the burthen of the Colonial Government.

The Ordnance Board cannot consequently claim the property itself, but have a legal claim to have reimbursed all expences incurred in the construction and repairs of those buildings belonging to the Colonial Government. I have &c.

(Signed) H. CLOETE, Advocate.

The respective Officers of the Ordnance.

[Enclosure 23 in the above.]

Extract of a Report from Major-General Sir James Carmichael Smyth, of the Royal Engineers, dated 11th February 1827.

At the capture of the Cape in 1806 we found two Signal Men upon the Lion's Head and upon the Lion's Rump. They were the same two old Dutch seamen whom we had left there when we evacuated the Colony in 1803. These people were paid, and the expence of the Establishment both at Cape Town and Simon's Town (where there were also two look-out stations) was borne by the Colonial Treasury. I speak pretty positively, for I myself was at that period Colonial Secretary, and drew up a signal code different from that used by the Dutch for their use. I also used to countersign the warrants for their pay and contingent expenses. Sir David Baird subsequently established for military purposes a chain of signal posts, so as to be able to communicate from Simon's Bay to Table Bay. I perfectly agree with Major General Bourke that these intermediate signal stations may now, in time of profound peace, be dispensed with, and the expence, whether to be defrayed by the Ordnance or the Colonial Treasury, be saved. I however

go further, and respectfully submit that the Ordnance ought not to incur any expence on account of these signal stations, which it is proposed should be kept up, but that the Colonial Treasury as formerly should find the necessary funds. The knowledge of Ships and Vessels being in the offing and in sight of land is principally required by the merchants, in peace time at any rate. The colonial revenue is in a great measure derived from the duties levied upon the shipping, or upon the importation of the goods they bring ; and it seems therefore to be in no way an expence connected with the Military Departments. If His Grace the Master General and Board approve of giving up these signal posts there will be a saving of £430 in the year's estimate. I observe in one of the enclosures in General Bourke's letter to Earl Bathurst of the 24th October last that in the period between September 1815 and November 1821 the Colonial Treasury paid about 3,000 dollars for the repairs of the signal houses. This money had been expended by the Commissariat from the Army Extraordinaries. There must have been an order from Home to call upon the Colonial Treasury for repayment. It seems therefore the more necessary for the Ordnance to resist this charge which, as it appears to me, is purely a colonial one.

[Office Copy.]

Letter from R. W. HAY, ESQRE., to PHINEAS BUCKLEY.

DOWNING STREET, 16 *March* 1827.

Your Memorial of the 10th Instant having been referred by Mr. Secretary Peel to Earl Bathurst, I am directed by his Lordship to acquaint you that it is not the present intention of His Majesty's Government to lend any encouragement to Persons desirous of emigrating to South Africa. Yours &c.

(Signed) R. W. HAY,

[Original.]

Letter from the REVEREND JAMES ADAMSON *to* R. W. HAY, ESQRE.

CUPAR FIFE, 16th March 1827.

SIR,—Permit me to inform you that I have been ordained by the Presbytery of Edinburgh to be minister of the proposed Scottish congregation at Cape Town, and have been instructed to apply to you to procure for me a passage to the colony at his Majesty's expence, in conformity with an assurance to that effect made to the Presbytery. The accommodation required is for a single person with six or seven boxes of luggage &c. I shall be ready to sail at any time after the end of this month and shall esteem it a particular favour if you will let me know as early as possible at what time a vessel will sail in which it may be convenient for his Majesty's government to afford me a passage. Believe me &c.

(Signed) JAMES ADAMSON.

[Office Copy.]

Letter from EARL BATHURST *to* LORD CHARLES SOMERSET.

DOWNING STREET, LONDON, 17th March 1827.

MY LORD,—The Lords Commissioners of His Majesty's Treasury having had under their consideration the Report of the Enquiry which I had directed His Majesty's Commissioners to institute into the charges preferred by Mr. Lancelot Cooke against the Collector of Customs at the Cape, I transmit to your Excellency herewith enclosed a copy of a letter which my Under Secretary of State has received from the Board of Treasury, together with an Extract of a Minute stating the view which their Lordships have taken of the proceedings which your Excellency had adopted in this case.

Having in my dispatch of the 28th of September 1824, pointed out to your Excellency those parts of the proceedings which appeared to require explanation, and having explained my opinion of the objectionable nature of the course adopted by you, as far as could be ascertained from the accounts which had been sent home, I regret extremely to find that a further

investigation into the matter has confirmed my previous sentiments in regard to your Excellency's conduct on the occasion in question.

It is a source of considerable regret to me to find that you should have so far lost sight of the right of every British Subject to appeal to the proper authorities, in any case in which he may consider himself aggrieved, as to address to the Fiscal the letter which suggested to him the propriety of prosecuting Mr. Cooke for a libel ; for although it was certainly not an order or an injunction, yet it is clear that practically the letter written by direction of your Excellency was likely to be considered in the light of a command, as in fact it seems to have been by the Fiscal.

I desire to call your Excellency's particular attention to that part of the Treasury Minute, in which the course which you ought in preference to have adopted, is clearly pointed out, as the danger of any departure from the principles and spirit of the British Law, even in administering the Government of a Colony where a different Code of Law prevails, cannot be too strongly impressed on your mind.

I have &c.

(Signed) BATHURST.

[Original.]

Letter from MAJOR-GENERAL BOURKE to EARL BATHURST.

GOVERNMENT HOUSE, CAPE TOWN, *March 17th 1827.*

MY LORD,—Having thought it expedient to take the opinion of His Majesty's Fiscal in the case of Mr. George Greig who claims a legal right to publish a periodical paper without first obtaining a licence from Government, I have the honor to enclose a copy of the opinion in that case, together with a copy of the Proclamation of the 21st July 1800 upon which it chiefly relies. Your Lordship will perceive upon what an uncertain foundation the Fiscal's opinion is established, and how desirable it is that the law should be more accurately defined.

I take it for granted that a Press under some certain regula-

tions must necessarily be established in this Colony, and I feel strongly how much the tranquillity of the Settlement depends upon the nature and efficiency of those regulations. Of the two modes of regulation the one by licence from Government resumable at its pleasure on the misconduct of the Printer, the other under the control of the law alone, I believe the latter might be advantageously adopted here upon the proposed reform in the Court of Justice being effected, and the enactment of a more intelligible and efficient law of libel than that which now prevails in the Colony. One or other of these measures is obviously necessary to control the licentiousness of the Press, and whichever is adopted as the permanent regulation should be so expressed as to remove the doubts and difficulties which at present embarrass the subject. To effect this I would submit to your Lordship that the legislative Ordinance which it will be necessary to publish in either case should be prepared under your Lordship's instructions at home, and sent hither to be promulgated in the usual form.

In venturing to submit my opinion as favorable to the admission of a free Press in this Colony I believe I am communicating the sentiments of the majority of the Council. I have not however thought it expedient to bring this question before them for the following reason: I conceive that the decision of His Majesty's Government as to whether the Press of this Colony shall be regulated by licence or placed under the control of the law alone, must in some degree be influenced by the consideration of what is the practice in other Colonial possessions of the Crown not having local legislatures, and that it might have been embarrassing to have taken the opinion of Council previously to the communication of your Lordship's wishes on this important subject. I have &c.

(Signed) RICHD. BOURKE.

[Enclosure in the above.]

FISCAL'S OFFICE, 16th March 1827.

SIR,—In compliance with His Honor the Lieutenant Governor's directions communicated to me in your letter of the 13th instant relative to Mr. Greig, I have the honor to reply for the information of His Honor,

First to the question proposed to me in the case annexed to your letter whether Mr. Greig can legally publish a periodical print, entitled List of Advertisements, without a Licence from Government, after notice given him that he should apply for such a Licence,

That as no Printing office has been ever established in this Colony before the 21st July 1800 the date of the Proclamation of the late Governor Sir George Yonge, whereby permission has been granted to Messrs. Walker and Robertson to set up a printing press and to publish a Newspaper weekly, and whereby it is declared that they at the time of the Proclamation were to be considered as the sole printers of Government and the only licensed Printers in this Colony, and as in the Licence granted to the said Walker and Robertson on the aforesaid date to print, it is further declared that the establishing of a printing press had been up to that time forbidden in this Settlement, it will be thence justly inferred that the printing business as far as the same has been allowed to be carried on by private Individuals in this Colony is entirely placed under the Superintendence and controul of Government, so that Mr. G. Greig cannot assume any right to print a list of Advertisements unless with the consent or tacit acquiescence of Government, and that in consequence of the notice given Mr. Greig that he should apply for a Licence to publish his proposed list and should engage to confine it to bonâ fide Advertisements, he cannot legally publish his said intended periodical print without such Licence having been previously obtained.

Secondly as to the question if it should be illegal in this case to publish without a Licence, and Mr. Greig should nevertheless do so, to what penalty he would become liable by law, and how it is to be enforced, that where the law has not defined the punishment to be inflicted upon, or penalty to be awarded against, wilful disobedience to the lawful orders of Government, such offence is punishable at the discretion of the judicial authority to whose jurisdiction it belongs to take cognizance thereof, which in the case in question would be in Cape Town the Court of the Permanent Sitting Commissioner of the said Court of Justice, and in aggravated cases of two Commissioners of the said Court.

As the Laws of Holland which existed at the time of the first Surrender of this Colony to the British arms were at that time and are still considered binding on the Inhabitants in so far as the same are applicable to this Colony and not contrary to the legislative enactments of the Colonial Government, I am under correction of opinion that the Publications of the late States of Holland (whereby the Printers of periodical newspapers under what denomination soever the same may be published, if printed without the special permission of the Magistrates of the place where the same are published, are made liable to discretionary corporal punishment) such as the Publication of the 9th December 1702 and the Resolution of the 5th June 1744, cannot but be looked upon as the proper guides of the Courts in passing judgment on the offences mentioned therein. I have &c

(Signed) D. DENYSSSEN, Fiscal.

The Honorable Sir Richard Plasket,
Chief Secretary to Government.

[Office Copy.]

Letter from R. W. HAY, ESQRE., to CAPTAIN P. TRIPP.

DOWNING STREET, 17 March 1827.

SIR,—I am directed by Earl Bathurst to acknowledge the receipt of your letter of the 13th instant, and have to acquaint you in reply that any British Subject proceeding to the Cape of Good Hope will be entitled to the same protection from the Laws as the Natives of the Colony. I am &c.

(Signed) R. W. HAY.

[Office Copy.]

Letter from R. W. HAY, ESQRE., to the REVEREND JOHN CASSIE.

DOWNING STREET, 17 March 1827.

SIR,—With reference to a letter which has been received from Dr. Manuel in which he states your request to be furnished with some Document shewing your presentation to one of the

Churches at the Cape of Good Hope and which may justify a Presbytery of the Church of Scotland in ordaining you, I am directed by Earl Bathurst to acquaint you that his Lordship can only repeat the assurance which has been already given you, that so soon as you shall have acquired a sufficient knowledge of the Dutch Language, you will be appointed to one of the Vacant Churches in the Colony. I am &c.

(Signed) R. W. HAY.

[Office Copy.]

Note from R. W. HAY, ESQRE., to DR. WOLLASTON.

Mr. Hay presents his compliments to Dr. Wollaston and requests that Dr. Wollaston will take the trouble of directing that the accompanying packet of Salt from Algoa Bay may be analyzed with the view of enabling Lord Bathurst to cause the Settlers at the Cape of Good Hope to be informed how it might best be freed from extraneous matter.

DOWNING STREET, 17 March 1827.

[Original.]

Letter from SIR RICHARD PLASKET to R. W. HAY, ESQRE.

CAPE OF GOOD HOPE, 17th March 1827.

MY DEAR SIR,—We have cancelled Mr. Greig's Licence according to the Instructions of Lord Bathurst.

As far as Mr. Greig and his editor Mr. Fairbairn are concerned, I rejoice at this measure, as they richly deserve punishment for the numerous misrepresentations and wilful falsehoods which they have inserted in their paper.

In other respects I regret the measure: it has created a very strong sensation here, and will I fear throw an additional odium upon Lord Charles Somerset's Government, as Mr. Greig will obtain numerous advocates and adherents in the friends

to the liberty of the Press, who will not feel (as those do who are acquainted with the merits of the case or interested in it) the calumnious nature and tendency of the article alluded to.

It is also unfortunate that this article was copied from the *Times* Newspaper, not that this is any excuse for Mr. Greig, indeed in his paper he studiously avoids giving it the appearance of an extract from the *Times* by leaving out the Heading in that Paper of "Cape of Good Hope," and substituting that of "Mr. Buissinne's case" instead, and also by not printing *Times* at the bottom of the article as he did to the preceding article, which you will perceive on referring to the two papers; but this is the ground on which he presses the hardship of his case, and it will get him many supporters on that account.

Immediately on receiving notice that his paper was stopped, the Editor determined to proceed to England, and the merchants and some others of the inhabitants of Cape Town applied to Government to hold a Public Meeting to take into consideration *the circumstances attending the suppression of the South African Advertiser*.

Had they asked to meet to deliberate on the state of the Press in this Colony or on any general question of public interest, we should have had no hesitation in acceding to their request, as we have ever done on similar occasions, but I trust you will agree with us that it was totally out of the question to allow of a Public Meeting for the express object of deliberating on the circumstances attending the suppression of Mr. Greig's licence effected by an order from His Majesty's Secretary of State.

Mr. Greig's Circular to his subscribers, which I inclose, is I think an impertinent production that should have been noticed, as he promised both the General and myself that he would merely announce the fact and give copy of the official letter. The General however does not deem it to be worthy of notice.

As to Mr. Greig's individual case, I do not see how any one can for a moment assert that he has not completely forfeited his license. Let them look at the conditions to which he has affixed his name on the one hand (herewith inclosed), and at the contents of his papers on the other. I beg particularly to call your attention to his papers of the 5th and 26th of Decem-

ber, for both of which he ought in my opinion to have been prosecuted.

I fear you will be bothered a good deal by Mr. Fairbairn and his adherents. I only hope you will give us a competent man as editor of a Government Paper (I mean on the side of Government) in lieu of our present Government official *Gazette*, as I have already proposed to you, and Mr. Greig and Fairbairn may then freely be left to the laws of the Colony, by which you will be saved much trouble. I have &c.

(Signed) RICHARD PLASKET.

[Office Copy.]

Letter from R. W. HAY, ESQRE., to the COMMISSIONERS OF COLONIAL AUDIT.

DOWNING STREET, 19 March 1827.

GENTLEMEN,—I am directed by the Earl Bathurst to transmit to you enclosed a dispatch which has been received from Major General Bourke enclosing a statement of such alterations as have been made in the Establishment of the Government of the Cape during the Quarter ending on the 30th of September last; and I am to acquaint you that his Lordship has signified to Major General Bourke his approval of such alterations, as well as of the encrease of Salary which the Governor had allowed to the Superintendent of the Government Gardens and of the Salary assigned to the Overseer at Camp's Bay. I am &c.

(Signed) R. W. HAY.

[Original.]

Note from DR. WOLLASTON to R. W. HAY, ESQRE.

1 DORSET STREET, MANCHESTER SQUARE, 21st March 1827.

Dr. Wollaston returns Mr. Hay the salt sent to him a few days since from Algoa Bay, which appears to him of as good

quality as any salt used in this country, but unfortunately mixed with sand.

In order to free it of this admixture it will require to be dissolved, that the sand may subside; after which the salt will be recovered by evaporation of the clear brine in large shallow pans, as practised in every salt-work.

[Original.]

Letter from MR. L. WITHAM to R. W. HAY, ESQRE.

CAREY STREET, 22nd March 1827.

SIR,—Having called several times at your office without being permitted to see you, I was yesterday informed by a gentleman at the Colonial Office that he was authorized to say that you wished me to write you on the subject of my business. The following extract from Lord Charles Somerset's Secretary to me (which I had the honor to receive on the 24th of February last) will explain the reason for my wishing to see you, viz. "His Excellency would therefore recommend you to wait on Mr. Hay, the Under Secretary of State for the Colonies, to whom you may offer any explanation, *and who will fully communicate to you the difficulty that presents itself to Lord Bathurst on the subject.*" I have &c.

(Signed) L. WITHAM.

[Original.]

Letter from MAJOR-GENERAL BOURKE to R. W. HAY, ESQRE.

NEWLANDS, March 23rd 1827.

MY DEAR SIR,—With reference to the suppression of the *South African Advertiser* upon which subject I have addressed Lord Bathurst, I beg to notice a complaint formerly put forth by Mr. George Greig in his paper, and which is likely to find its way into his petition to the House of Commons; namely that

the measures of the Colonial Government have been directed against him individually. Those to which he alluded in his Paper being the Stamp duty and postage to which newspapers were lately subjected. You are I believe aware that these duties (to which no well founded objection can be made) were in truth imposed by Earl Bathurst's order, whilst the conduct of the Government towards him has been marked by the strictest impartiality in those cases that were brought before it and concerned Mr. Greig.

For instance he has now the contract for supplying the Government Offices with stationery; tenders having been called for by public advertisements, and Mr. Greig's having appeared the most advantageous for the Public. Upon the same impartial principle when the *South African Chronicle* ceased to be published such advertisements from the public offices as seemed to require the greatest possible publicity were sent to Mr. Greig's paper for insertion as well as to the *Government Gazette*; and he has now obtained a licence to publish a list of sales upon his undertaking that it shall contain bonâ fide advertisements only without any mixture of political discussion or private controversy.

As I understand the law of the Colony, it goes to prohibit the business of a printer being carried on without license, but latterly (for these last four or five years) no impediment has been offered to the printing and publishing of hand bills, reports of trials, and many other matters without license being asked for or granted. It would however I believe be difficult to state by what Colonial law a license to print and publish a regular newspaper, such as the late *South African Advertiser*, was required, unless by virtue of the general law alluded to, which seems to prohibit all manner of printing without a license. A copy of this enactment, being a Proclamation of Governor Sir George Yonge of the 21st July 1800, has been transmitted to Lord Bathurst in my despatch of the 17th inst., No. 21. I have &c.

(Signed) RICHD. BOURKE.

[Original.]

Letter from Mr. L. WITHAM to R. W. HAY, ESQRE.

No. 9 NEW BOSWELL COURT, 23rd March 1827.

SIR,—Agreeable to your desire I beg leave to state to you, that in the month of November 1825 I was practising at the Cape of Good Hope in the capacity of a Notary Public, and labouring under extreme indisposition I applied to Lord Charles Somerset (by Memorial) for two years leave of absence, and at the same time praying that a gentleman might be appointed to conduct my business and keep my connection together during my absence. This was immediately complied with, only stipulating that I should name the person I wished to be deputed, which I did, and he was examined and declared competent to act. With this document of leave and promise of appointment to the gentleman I named unrevoked, I sailed from the Cape on the 20th of November 1825. On the 6th day of November last I received the first intimation that the leave of absence and Mr. Barker's consequent authority to act in my place had been abridged from *two years to eighteen months*. I then immediately addressed Lord Charles Somerset, who was pleased to advise me to lay a representation of the facts before him in the shape of a Memorial praying that the period for which Mr. Barker was permitted to carry on my business might be extended to six months longer, that is to the original term granted, and that His Excellency would forward the same to the Lieutenant Governor with His Excellency's recommendation that the prayer thereof should be complied with. On the 20th of December 1826 I had the honor to furnish Lord Charles Somerset with such Memorial, and on the 24th of February I received a letter from Mr. Brink stating that "His Excellency Lord Chas. Somerset, considering that he should meet my wishes much more promptly as well as effectually by submitting my request to the favourable consideration of Earl Bathurst in lieu of referring it to the Lieutenant Governor, His Lordship was much disposed in consequence of His Excellency's recommendation to accede to my request, but a letter was addressed to his Lordship by Mr. D. P. Taylor, a notary at the Cape, which presented much

difficulty to His Lordship's mind to affording Mr. Barker the extension prayed for," and further advising me to wait upon you for the purpose of offering explanation. This Mr. D. P. Taylor, the person who has addressed Lord Bathurst on the subject representing himself as a Notary at the Cape, is an Attorney of the Courts here and at this present moment, and at the time he addressed his Lordship, practising as such in Barnard's Inn, Holborn. I beg leave further to state that the said Taylor apprized me at the time that he intended to write to Lord Bathurst to bias his Lordship's mind against the appointment of Mr. Barker, as he had been instrumental in detaining Taylor before he ran away from the Colony, which, if necessary, can be verified by Mr. Brink.

Under these circumstances may I beg leave to request you to do me the honor to name that business to Lord Bathurst (who I am led to believe has been conferred with on the subject by Lord Charles Somerset) and to solicit His Lordship's kind interference and that he may be pleased to direct that the original period of leave for two years granted by Lord Charles Somerset and the continuation of Mr. Barker as my agent for that period, should be confirmed, and that the alteration made in both *after my departure* from the Cape, when I had no power to oppose it, should not be acted upon. I have &c.

(Signed) LAW. WITHAM.

P.S. I have the honor to enclose a copy of Lord Chas. Somerset's reply to the Memorial abovementioned.

[Original.]

Letter from MR. R. HART DAVIS to R. W. HAY, ESQRE.

CONDUIT STREET, *March 23rd 1827.*

MY DEAR SIR,—My friend Mr. Wm. Mills Edye who holds a Commission in the North Gloucester Militia, who will be the bearer of this letter, is anxious to become a Settler at the Cape of Good Hope. He will carry out Five Hundred Pounds with him. I shall feel much obliged by your placing him or

recommending him to be placed in the best locality there with as large a grant of land as is consistent with the capital which he carries out with him.

As I feel much interested in his welfare I shall be obliged to you to procure for him a letter of introduction to the Governor or such other authorities as you may deem most proper and useful. I have &c.

(Signed) R. HART DAVIS.

[Original.]

Letter from MAJOR-GENERAL BOURKE to EARL BATHURST.

[11] CAPE OF GOOD HOPE, *March 24th 1827.*

MY LORD,—I have the honor to transmit to your Lordship the General Monthly Return of the Troops serving under my Command to the 25th February 1827. I have &c.

(Signed) RICHD. BOURKE, Major General.

[Office Copy.]

Letter from R. W. HAY, ESQRE., to MAJOR-GENERAL BOURKE.

DOWNING STREET, *24th March 1827.*

MY DEAR SIR,—This letter will be presented to you by Mr. William Mills Edye, whose object in proceeding to the Cape of Good Hope is to devote himself to Agricultural pursuits. For this purpose Mr. Edye will carry out with him about five hundred pounds, and in assigning to him a Grant of Land proportioned to his means, I shall be much obliged to you if you will shew him any indulgence in the promotion of his undertaking. I have &c.

(Signed) R. W. HAY.

[Office Copy.]

Letter from R. W. HAY, ESQRE., to the REVEREND JAMES ADAMSON.

DOWNING STREET, 24 March 1827.

SIR,—Having laid before Earl Bathurst your letter of the 16th instant I am directed to acquaint you that previous to any directions being given for providing you with a passage to the Cape of Good Hope, it will be proper that the Presbytery should acquaint his Lordship with the circumstance of your having been ordained and selected by that Body to be a Minister of the Scottish Church at the Cape of Good Hope.

I am &c.

(Signed) R. W. HAY.

[Original.]

Letter from W. W. BURTON, ESQRE., to EARL BATHURST.

TANFIELD COURT, TEMPLE, March 24th 1827.

MY LORD,—Your Lordship's handsome approval of the recommendations of Mr. Bacon Vaughan and my other professional friends, which has been so lately shewn, in appointing to an honorable and exalted station one, otherwise unknown to your Lordship, than as those testimonials introduced me, whilst it claims my gratitude personally to your Lordship, adds also to my admiration of that disinterestedness, which made *my* humble application be noticed. I sensibly feel the kindness which your Lordship shewed, after my appointment as a Puisne Judge at the Cape of Good Hope had been made known to me, in increasing the value of that appointment by placing me next in rank to the Chief Justice. I should be wanting to myself did I not beg leave to express the grateful sense I have, and shall ever retain of the value of your Lordship's favor, and I know I shall recommend myself best to that favor by honestly devoting all my energy to the promotion of those important benefits which it is His Majesty's

gracious intention to confer upon the Colony : and I solemnly pledge my honour to your Lordship, that I will never be found wanting in the faithful performance of my duty.

I beg your Lordship &c.

(Signed) W. W. BURTON.

[Office Copy.]

Letter from EARL BATHURST *to* MAJOR-GENERAL BOURKE.

DOWNING STREET, LONDON, 25th March 1827.

SIR,—Among the documents annexed to the Report of the Commissioners of Enquiry dated the 12th of October 1824, upon the Grants of Land made by Lord Charles Somerset to Mr. J. H. Redelinghuys was a Memorandum of Mr. D'Escury dated the 21st of June in the same year. In that Memorandum a passage occurred referring to certain transactions into which his Lordship was represented to have entered with a person named Durr. I have the honor to enclose for your information an extract of so much of that Memorandum as relates to these transactions, from which you will perceive that Mr. D'Escury imputed to Lord Charles Somerset conduct highly derogatory to his personal character, and to the high judicial station occupied by his Lordship in the Colony.

The Report of the Commissioners of Enquiry on the case of Redelinghuys did not contain any notice of this accusation, and I, therefore, presume that they did not at that time feel themselves competent to enter upon any investigation of it. But as it appears from the Documents marked K and L annexed to the Governor's dispatch of the 12th October 1825 that there is no ground whatever upon which Lord Charles Somerset could be justly charged with the sordid and corrupt conduct which has been attributed to him, it follows, therefore, that the charge preferred by Mr. D'Escury is an unfounded and injurious imputation on the character of Lord Charles Somerset.

As this is the second instance in which Mr. D'Escury has been the author of statements reflecting unjustly on the honor of

the Governor, it is necessary to mark the impropriety of such conduct by some distinct censure. I have, therefore, to direct you to suspend Mr. D'Escury from all his public offices in the Colony, such suspension to be continued for three months from its commencement.

You will also admonish him that the repetition of any similar misconduct will inevitably be followed by a final removal from Office. I am &c.

(Signed) BATHURST.

[Office Copy.]

Letter from EARL BATHURST *to* MAJOR-GENERAL BOURKE.

DOWNING STREET, LONDON, 26th March 1827.

SIR,—I have the honor to acknowledge the receipt of your dispatch of the 9th of January last, marked Separate, enclosing a Petition from the Roman Catholic Inhabitants of the District of Albany, in which they pray that a Clergyman of their persuasion may be appointed to reside and officiate in their District with a Salary from Government adequate to his maintenance, to be paid until the Roman Catholic Inhabitants of Albany shall be enabled to take this charge upon themselves ; and in compliance with your suggestion I have to desire that you will in furtherance of the prayer of the Petitioners appoint one of the two Roman Catholic Clergymen of Cape Town to reside in Albany. I have &c.

(Signed) BATHURST.

[Original.]

Letter from the REVEREND JOHN CASSIE *to* EARL BATHURST.

39 THISTLE STREET, EDINBURGH, 29th March 1827.

MY LORD,—I acknowledge the receipt of your letter of 17th Current, and in reply I beg leave to inform your Lordship that the Document referred to came safe to hand, was laid

before the Presbytery of Arbroath and sustained, and that after passing thro' the ordinary trials I have been ordained. I am now waiting to proceed to Holland by the first conveyance.

I have &c.

(Signed) JOHN CASSIE.

[Original.]

Letter from the REV. ALEXANDER BRUNTON *to*
R. W. HAY, ESQRE.

EDINBURGH COLLEGE, 29th March 1827.

SIR,—I have the honour, as Convener of Committee of the Presbytery of Edinburgh, to acquaint you, for the information of Earl Bathurst, that, in conformity with your letter to Messrs. Borradaile & Co., the Presbytery have ordained the Revd. James Adamson to be Minister of the Scotch Church at Cape Town. May I beg to be informed in what way, and at what time, it will be convenient to fulfil the promise which you were good enough to make to Messrs. Borradaile that the nominee of the Presbytery should have a free passage to the Cape. I have &c.

(Signed) ALEX. BRUNTON.

[Office Copy.]

Letter from EARL BATHURST *to* LORD CHARLES SOMERSET.

DOWNING STREET, 31st March 1827.

MY LORD,—Having had under my consideration the explanations which have been furnished by your Excellency respecting various disbursements which you had incurred during the years 1819, 1822, and 1823 without having previously received any authority for such expenditure, and which the Commissioners of Colonial Audit have consequently directed to stand surcharged against your Excellency, I have now to acquaint your

Excellency that I have felt myself warranted in finally signifying my sanction of such disbursements, although not without extreme regret at observing that both in incurring that expenditure, and in the forms to be observed in accounting for it, the Instructions of His Majesty's Government have been so much disregarded. I have &c.

(Signed) BATHURST.

[Copy.]

Letter from R. W. HAY, ESQRE., to SIR RUFANE SHAW DONKIN.

DOWNING STREET, 31st March 1827.

SIR,—I have received Earl Bathurst's directions to transmit to you enclosed an extract of certain instructions which are stated to have been extracted from the Orderly Book of the 54th Regiment, for the guidance of the troops on the frontier of Caffre Land.

These instructions are stated to have been communicated to Mr. William Parker by Captain Blakeman, late of the 54th Regiment; and his Lordship requests that you will furnish him with any explanation which you may be desirous of offering on this subject. I have &c.

(Signed) R. W. HAY.

[Enclosure in the above.]

Extract of an Order issued to CAPTAIN RICHARD BLAKEMAN, late of the 54th Regiment, dated Fort Willshire, 6th April 1821.

37.—All male Caffres found over the boundary, armed or not, are to be shot. Female Caffres found over the boundary, to be taken and sent to head quarters with an escort.

[Office Copy.]

*Letter from R. W. HAY, ESQRE., to the COMMISSIONERS OF
COLONIAL AUDIT.*

DOWNING STREET, 31 *March* 1827.

GENTLEMEN,—Earl Bathurst having had under his consideration the explanations which have been furnished to him by Governor Lord Charles Somerset respecting various disbursements which had been made by him during the years 1819, 1822, and 1823, as set forth in the accompanying schedules, I have received his Lordship's directions to acquaint you that these disbursements have received his sanction. I am &c.

(Signed) R. W. HAY.

[Copy.]

*Letter from MESSRS. J. A. TRUTER and R. J. VAN DER RIET to
SIR RICHARD PLASKET.*

CAPE TOWN, *April* 1st 1827.

SIR,—In compliance with His Honor the Lieutenant Governor's order, contained in your letter of the 15th September 1826, directing us to attend the Synod of the Reformed Churches in this Colony, and to represent the Government as Political Commissioners on that occasion, we accordingly opened the Synod with the requisite solemnities on the 7th November following, when we proceeded to business and continued our sittings until the 15th of the same month, on which day the Synod was closed in all due form.

We have now the honor herewith to transmit to you for the information of His Honor the Lieutenant Governor the proceedings and Resolutions, together with a conductory letter from the Moderators containing a detailed report upon the several points submitted to the deliberations of the Synod, and requesting His Honor's sanction on their resolutions and further proceedings.

On the several points which constituted the subject of the

Synod's deliberations and contained as well in the said consultory letter as in the Resolutions annexed thereto, we have no particular remarks to offer. We only beg leave to call His Honor's attention to the latter part of the conductory letter relative to a plan of a *Synodus contracta*; from which it will appear that the Members of the Synod themselves are sensible of the inconveniences attending a regular general meeting every two years of all the Clergymen of the Reformed Church from the most distant parts of this Colony. We therefore take the liberty on this subject to submit to the consideration of His Honor the Lieutenant Governor, whether the 51st article of the Church regulations of the 25th July 1804 whereby it is left to the Governor "to consider and decide whether the intended utility of a (two-yearly) Synod can be reconciled with the inconveniences necessarily connected therewith, how such utility can be secured, and how those inconveniences can be removed or at least modified." Whether this article, we submit, should not lead to some fixed rule for the future, either by acceding to the proposed plan of a *Synodus contracta*, or by ascertaining in time previous to each two yearly meeting, and submitting to the Governor's decision, whether or not there exists any necessity for assembling that year a Synod, or else by prolonging the term at once from two to five years, which last would at all events lessen the inconveniences, as well as the burthens now falling on the congregations for making good the expences required for the travelling and support of the deputies of the several Vestries in the Country Districts; whilst the interest of the church would be watched in the mean time by the Presbyteries or provincial assemblies.

In the course of the proceedings of the Synod it has occurred to us, that particularly in the Country Districts differences have sometimes arisen between the Vestry and the Political Commissioner which could not entirely be settled from the Instructions for the latter. We therefore have deemed it our duty to submit to His Honor the Lieutenant Governor the expediency of revising the Instructions for the Political Commissioners, in order, if and where it may be found requisite, more adequately to regulate the relative situation of the Political Commissioner and the Vestry.

At the request of the Clergy in the country congregations, we

have engaged to submit to the attention of His Majesty's Government their respectful representation of the scantiness of their living, which for those who have no means of their own is insufficient honestly to subsist upon with a family of even a moderate extent. We have not felt at liberty to decline submitting this respectful representation, and beg leave herewith to lay the same before His Honor for His liberal consideration and paternal support.

Finally the Synod having considered the necessity of giving publicity to their proceedings, for the information and guidance of the Reformed Church, we beg to submit to His Honor the Lieutenant Governor their respectful request, that His Honor may be pleased to allow that that part of the proceedings of the Synod which require publicity may be printed *gratis* at the Government Printing Office.

We have the satisfaction to conclude this report with the assurance that the proceedings of the Synod have this time not less than in their Session of 1824, been carried on with exemplary order and concord, and that in every respect a spirit of confidence in and attachment to His Majesty's Government has been unequivocally evinced which entitle the Ecclesiastical Directors of the Reformed Church in this Colony to the continuance of that liberal protection which they gratefully acknowledge to have enjoyed till now, and in particular also under the administration of His Honor the present Lieutenant and acting Governor. We have &c.

(Signed) J. A. TRUTER,
R. J. VAN DER RIET.

[Office Copy.]

Letter from R. W. HAY, ESQRE., to MAJOR-GENERAL BOURKE.

DOWNING STREET, LONDON, 2nd April 1827.

SIR,—I am directed by Earl Bathurst to transmit to you enclosed a copy of a communication which has been received from the Secretary to the Board of Ordnance respecting a supply of muskets which have been furnished by the Officers

of that Department at the Cape, for the Service of the Albany District, and which have not been returned into the Ordnance Stores, as originally agreed upon, nor paid for ; and I have to suggest to you the propriety of taking measures for either returning the muskets to the Ordnance Department, or paying the value of them. I have &c.

(Signed) R. W. HAY.

[Office Copy.]

Letter from R. W. HAY, ESQRE., to MAJOR-GENERAL BOURKE.

DOWNING STREET, LONDON, *2nd April 1827.*

SIR,—I am directed by Earl Bathurst to transmit to you enclosed a copy of a communication which has been received from the Commissioners of the Navy, by which you will perceive that measures have been taken for ordering the *Champion* Convict Ship to touch at the Cape of Good Hope for the purpose of receiving on board the eight Individuals, natives of England or Ireland, who have been sentenced by the Courts of the Colony to be transported to New South Wales. I have &c.

(Signed) R. W. HAY.

[Original.]

Letter from SIR RUFANE SHAWE DONKIN to EARL BATHURST.

PARK STREET, GROSVENOR SQUARE,

Monday, April 2nd 1827.

MY LORD,—On Saturday last I received a letter from your Lordship's under secretary, Mr. Hay, calling on me to answer a query relative to circumstances which took place during my administration of the government of the Cape of Good Hope, and which I answered fully, and I hope satisfactorily, above three years ago in a letter to Mr. Wilmot Horton.

When I look back on the system of interrogatory with which

I have been pursued for the five years which have elapsed since my return from the Cape ; when I compare the tone and tenor of the communications which I have in that period received from your Lordship's department with the manner and courteous expressions with which you received me on my first arrival ; when I recollect, that about four months ago, when I requested an interview with your Lordship, instead of being received by you, I was met by a letter ; when I contemplate the reversal of all the measures of my government by Lord Charles Somerset ; and when your approbation of this reversal is clearly implied by his being continued in his office, and, as it is said, by his intended return to the Cape of Good Hope ; it is most clear to me, as it is to every body who knows any thing about me and my affairs, that the whole of this together amounts to a plain signification from your Lordship to me, that your opinions in my regard have undergone a material change since you honoured me with your approbation whilst I was exercising the government in question, and since your despatch of the 28th of September 1821, conveying to me my Sovereign's most gracious approbation.

The time, therefore, is now come at which I am determined to do justice to myself, and to place my conduct in its true point of view, by bringing it forward in direct and palpable comparison and contrast with that of Lord Charles Somerset since I left the Cape ; and accordingly I shall, in a very few days, publish a Letter addressed to your Lordship on the above subject, and which I shall this day begin to prepare for the press.

Your Lordship has never seen any thing in my correspondence, or in my demeanour towards you, which did not imply the most entire respect for your high office, and for yourself personally ; and the letter I now have the honour of addressing to your Lordship is intended to be in unison with that respect ; for I mean it as a preliminary announcement of my intentions, that I may not appear to have brought out suddenly upon the world a printed Letter, addressed to your Lordship, without having first had the courtesy to give you notice that I was going to do so.

I will conclude by entreating your Lordship not to imagine for one moment that the step which I am about to take is

meant as an attack or as a censure on you ; my respect for your office and person, and my attachment to the Government of which your Lordship forms a part, must prevent both my entertaining, and any body else from imputing to me such feelings ; mine will be an act of simple self-justification ; and the time has at last arrived beyond which I cannot defer it, either in justice to my character while I live, or to the reputation I wish to bequeath to my child when I die.

I have &c.

(Signed) R. S. DONKIN.

[Original.]

Letter from SIR RUFANE DONKIN *to* R. WILMOT HORTON, ESQRE.

PARK STREET, GROSVENOR SQUARE, *April 2nd* 1827.

DEAR SIR,—I find that you were at Kenwood yesterday before I went to dinner. I regret that I had not the good fortune of meeting you there, for I should then have saved you the trouble of reading this, by requesting you verbally, (as I now do by letter) in case Mr. W. Parker should bring before the House of Commons any Petition or Statement touching a General Order I am *supposed* to have issued at the Cape about shooting Kaffers, but which I am by no means sure that I ever did issue, simply to have the goodness to read to the House my letter to you dated Haymarket, March 16th 1824, in answer to such Petition or Statement. I will not trouble you to make any other defence of me on that point, although I trust and hope that you will not allow Mr. W. Parker to attack me without rising in my defence, when you have the power to do so from information which has come officially before you.

I have &c.

(Signed) R. S. DONKIN.

[Original.]

Letter from SIR RUFANE SHAW DONKIN *to* R. W. HAY, ESQRE.PARK STREET, GROSVENOR SQUARE, *April 2nd* 1827.

SIR,—I have to acknowledge the receipt of your letter of the 31st ultimo, with its enclosure, purporting to be part of a general order issued by me at the Cape on the 6th of April 1821 ; and in answer, I beg leave to refer to my letter to Mr. Wilmot Horton, dated above three years ago, namely March 16th 1824, which letter gives a full, and in my opinion, a satisfactory explanation of the matter in question. I have &c.

(Signed) R. S. DONKIN.

[Original.]

Letter from MR. JOHN BROWN *to* R. W. HAY, ESQRE.SIDNEY'S ALLEY, LEICESTER SQUARE, *2nd April* 1827.

SIR,—In reference to the Petition of the Catholics in the District of Albany, South Africa, I have the honor to state my instructions from the Committee direct me to give every information the Right Honourable Earl Bathurst may require respecting the object of the Petitioners.

It may therefore be necessary to state that the signatures attached to the Petition do not include such Catholics as are employed in His Majesty's service. I have &c.

(Signed) JOHN BROWN.

[Office Copy.]

Letter from R. W. HAY, ESQRE., *to* LORD CHARLES SOMERSET.DOWNING STREET, *3rd April* 1827.

MY LORD,—Earl Bathurst having had under his consideration your Excellency's dispatch of the 31st of July 1825 in which you enclose Statements of the whole amount of expenditure

which had been incurred for various services, in which the rebuilding of Newlands is included from the year 1819 to the date of that dispatch, I have received his Lordship's directions to convey to your Excellency his desire that you will explain what portion of the expenditure in question may be considered as having been incurred exclusively on account of Newlands.

His Lordship is also desirous of being apprized of the grounds upon which your Excellency proceeded to authorize the rebuilding or repair of Newlands in 1822, without having obtained the sanction of His Majesty's Government to that measure ; for although the reasons which induced your Excellency to authorize the rebuilding of that residence in 1819 might have justified you under the urgency of the case in adopting that measure, yet his Lordship is not informed that a similar urgency existed for undertaking the subsequent expensive repairs which seem to have been bestowed principally upon the out-buildings.

I have &c.

(Signed) R. W. HAY.

[Office Copy.]

Letter from R. W. HAY, ESQRE., to LORD CHARLES SOMERSET.

DOWNING STREET, 3rd April 1827.

MY DEAR LORD,—I have communicated to Lord Bathurst your wish to be put in possession of the Appendix to the Commissioners' Report on the Finances of the Cape ; and I am desired by his Lordship to acquaint you, that it is not intended to lay the Appendix before Parliament, and that the Papers which it comprises cannot now conveniently be spared. Opportunities will no doubt occur hereafter when Lord Bathurst may be desirous of consulting you on many of the subjects to which these Papers refer. I remain &c.

(Signed) R. W. HAY.

[Office Copy.]

Letter from R. W. HAY, ESQRE., to the COMMISSIONERS OF THE NAVY.

DOWNING STREET, 3 April 1827.

GENTLEMEN,—I am directed by Earl Bathurst to request that you will order a Passage with Cabin and Victuals for the Reverend James Adamson who is about to proceed to the Cape of Good Hope. I am &c.

(Signed) R. W. HAY.

[Office Copy.]

Letter from R. W. HAY, ESQRE., to the REVEREND A. BRUNTON.

DOWNING STREET, 3 April 1827.

SIR,—With reference to your letter of the 29th ultimo, I am directed by Earl Bathurst to acquaint you that a Passage will be ordered for the Reverend James Adamson for the purpose of conveying him to the Cape of Good Hope. I am &c.

(Signed) R. W. HAY.

[Original.]

Letter from the REVEREND JAMES EDGAR to R. W. HAY, ESQRE.

GLASGOW, 3rd April 1827.

SIR,—You will find on the other leaf of this letter security given for me by Dr. Lockhart, minister of the College Church, and Mr. Marshall of the Outer High Church, both of this city. I presented your letter of appointment to the Presbytery of Glasgow, and was taken on trial for ordination, and was ordained last week. I now therefore wait the fifty pounds to enable me to proceed to Holland. Perhaps it is giving unnecessary trouble to ask if I might go from Holland direct to the Cape of Good Hope, as my going in company with natives of that country would afford me additional facilities in the further acquisition of the language. The necessary certificates of my

progress in acquiring the Dutch tongue could be forwarded to London. The only clergyman I know who went to the Colony proceeded direct from Holland. But with regard to this I am all submission to your better judgment, and only mention it that if it was agreeable to established practice it might be useful to me. Your answer will oblige, Sir, &c.

(Signed) JAMES EDGAR.

[Office Copy.]

Letter from R. W. HAY, ESQRE., to MAJOR-GENERAL BOURKE.

DOWNING STREET, LONDON, 5th April 1827.

MY DEAR SIR,—Lord Bathurst having lately received from some Individuals resident at Algoa Bay a specimen of the Salt which is produced in that quarter, his Lordship directed that it should be submitted for the inspection of Dr. Wollaston, and the Doctor having reported that the Salt is of as good quality as any which is used in this Country, although unfortunately mixed with sand, his Lordship has desired me to acquaint you with Dr. Wollaston's favorable opinion, which I enclose, as it may be of importance to those from whom the Salt was received. Believe me &c.

(Signed) R. W. HAY.

[Office Copy.]

Letter from R. W. HAY, ESQRE., to SIR RUFANE DONKIN.

DOWNING STREET, 5 April 1827.

SIR,—I have received Earl Bathurst's directions to acknowledge the receipt of your letter of the 2nd instant and to acquaint you in reply, with reference to that part of your communication in which you mention what you describe as "the system of interrogatory by which you had been pursued for the last 5 years," that the reference which was made to you the other day, as well as similar references on former occasions, have only been addressed to you in conformity with

the usual practice in all cases where information is required from persons who have held public situations of importance under this Department, a practice which it may be presumed exists also in other Departments. I have &c.

(Signed) R. W. HAY.

[Original.]

Letter from G. W. BRANDE, ESQRE., to R. W. HAY, ESQRE.

COLONIAL AUDIT OFFICE, 5th April 1827.

SIR,—In compliance with the request of Earl Bathurst conveyed to the Commissioners of Colonial Audit in your letter of yesterday, I am directed to transmit to you the enclosed Return, which the Commissioners conceive will afford his Lordship the desired information respecting the accounts of the Colonies of Malta, the Cape of Good Hope, Mauritius, and Ceylon.

I am at the same time to observe to you that no particular arrear has for some years occurred in the examination of the Accounts of the Agents for those Colonies in this Country.

I have &c.

(Signed) G. W. BRANDE.

[Enclosure in the above.]

Colony : Cape of Good Hope.

Latest period to which Account has been rendered : 31st December 1825.

Period of Account remaining Unaudited.	When such Unaudited Account was rendered for Audit.
(a) December 1821	6 December 1822.
Year 1822	6 October 1823.
Year 1823	16 September 1824.
(b) Year 1824	30 January 1826.
(c) Year 1825	8 February 1827.

Remarks : (a) The examination of these Accounts was long since completed, but their audit was deferred for want of the

authorities transmitted in Mr. Hay's letter to this Board of 31st Ultimo. It will now be completed forthwith.

(b) This Account has been examined and Queries thereon transmitted to Lord Charles Somerset.

(c) Examination nearly completed.

Colonial Audit Office, 5th April 1827.

(Signed) G. W. BRANDE.

[Printed Copy.]

Letter from SIR RUFANE DONKIN to EARL BATHURST.

PARK STREET, GROSVENOR SQUARE, *April 6, 1827.*

MY LORD,—Four months have now elapsed since I presented myself at the door of your Lordship's office, in the hopes of being honoured by a personal interview, when I was met by a letter, instead of being admitted into your presence; and that letter, which referred only to one part of the business on which I had previously solicited the honour of seeing your Lordship, coupled with the circumstances of its delivery, gave me a pretty clear intimation that my re-appearance in Downing-street would neither be expected nor welcome.

Thus situated, I have come to the determination of addressing to your Lordship this letter, by which you will be made acquainted with some facts, in the right understanding of which I am myself personally interested, and by which your Lordship will be enabled to form, I hope, a judgment between Lord Charles Somerset and myself, as to the measures adopted by me, generally, in my administration of the government of the Cape of Good Hope; but particularly as to my measures for establishing above 5,000 British settlers in that Colony, and those pursued by Lord Charles Somerset for the total subversion of all I had done under your Lordship's instructions and sanction; and, I am proud to say, with your Lordship's entire approbation.

The late period to which the consideration of my petition to the House of Commons against an undue return for Stockbridge is deferred, coupled with the reports I hear that Lord Charles

Somerset announces, with much confidence, his return to the Cape of Good Hope at no distant period, renders it imperative on me, while he is present in this country, to afford to him an opportunity of explaining and justifying to your Lordship, if he can, his conduct, in what I have ever considered as a wanton and very unjustifiable destruction of the hopes and actual prosperity of a large body of British settlers in Albany, the details of which will now thus meet your Lordship's eye, instead of being addressed to your Lordship's ear, which in all probability they would have been, had I been deemed worthy of the honour of being admitted to a personal interview when I solicited, and when, I confess, I expected it.

But, my Lord, although I have the most entire reliance on the accuracy of my friend—I hope he will allow me to call him so—Mr. Hay, your Lordship's Under-Secretary, in conveying to your Lordship my wishes to see you, and the objects I had in view, I will beg leave here to re-state, and to bring before you, not only what passed between Mr. Hay and myself, but what led to my requesting to be admitted into your Lordship's presence.

Immediately on my arrival from the Cape in 1822, I waited on your Lordship, and I was received by you in the most flattering manner, and I then learnt from you that a despatch had been written to me by your Lordship, conveying to me my Sovereign's most gracious approval of my conduct in carrying on the government of the Cape of Good Hope, which information you were pleased to accompany by a repetition of your own entire satisfaction.

It naturally became an object of desire with me to get possession of the despatch in question, and which had passed me at sea ; I therefore applied to the Under-Secretary of your Department for an authenticated copy of it, when I learned that it was contrary to official usage to grant copies of any papers to individuals from an office of a Secretary of State ; but, by a courtesy which I have always acknowledged with thanks, and which tallies with all the conduct of Mr. Wilmot Horton towards me, that gentleman put me unofficially in possession of the general tenor of the despatch in question ; but, as I obtained this unofficial information through the personal kindness of Mr. Wilmot Horton, I felt that I could not

with any sort of propriety refer officially to anything I had learned from him ; nor wait on your Lordship to make any representations on the ground of a paper of which you had a right to assume I could know nothing till the original reached me. Thus circumstanced, I wrote to the Secretary of the Colony at the Cape, claiming this despatch. The first answer I got consisted of a few lines, and on which I cannot now lay my hands, merely announcing to me that they knew nothing of any such despatch at the Cape. I again wrote in vain ; but lastly, I addressed a letter to the Secretary of the Colony as follows :—

CHELTENHAM, *August 16th, 1823.*

SIR,—In November last I addressed a letter to you, desiring that a despatch which Earl Bathurst had written to me on the close of my government of the Cape of Good Hope might be returned to me ; and I expressed my surprise, as I must again do, that a communication so entirely personal to myself should not at once have been returned to me, without any application on my part. A year and a half has now elapsed since that despatch must have reached the Cape of Good Hope, and it has not yet been sent to me. I must, therefore, again call on you, either to forward it to me at once, and to account for the great delay which has occurred, or that you will, in case the despatch in question has been destroyed, or suppressed, by any person whatever, acquaint me with the particulars, and by whom it may have been so destroyed, or suppressed ; for, as it contained the King's gracious expression of his royal approbation, it is my intention to lay a Memorial at his Majesty's feet, in case any man shall have dared to intercept such a communication to me from my Sovereign. I have &c.

R. S. DONKIN.

To Colonel Bird, Secretary to the Colony,
Cape of Good Hope.

This produced an answer from Colonel Bird, the Secretary, which began by stating that he had applied to the Postmaster-General at the Cape on the subject, whose reply simply was “ that all despatches from the Secretary of State are contained in a box, or a leathern bag, which is delivered (at the Government House) without being opened by any one of this (the Post-Office) department.” Colonel Bird's letter to me concludes with the following sentence :

I have also communicated to his Excellency Lord Charles Somerset, on the 2nd day of this month, (December, 1823,) your anxiety with respect to the despatch in question, *when his Lordship informed me that he did not recollect having seen any despatch of the nature of the one you mention.*

I regret the disappointment this fruitless inquiry will occasion, and have the honour to be, &c.

(Signed) C. BIRD.

Here then is a *distinct denial* on the part of Lord Charles Somerset of any knowledge of your Lordship's despatch to me.

I began to think the search hopeless, when the appointment of my friend, General Bourke, to the Lieutenant Government, gave me reason to hope that I should succeed at last, and accordingly I gave him a written memorandum, claiming from him, as soon as he should be in authority, the despatch in question. Soon after his arrival, he wrote to me as follows, on the band or wrapper covering the authenticated copy of the despatch I had so long wanted—no date; but by his next letter it will appear that this first short memorandum must have been written March 2nd, 1826.

MY DEAR DONKIN,—The original, of which the enclosed is a copy, having arrived after you had left the Colony, was returned to Lord Bathurst's Office for you, and a copy of it placed amongst the records in the office here. It was thought you would wish to have the *original*, which was accordingly sent home for you. It is curious how it has missed. Lord Charles Somerset told Colonel Bird, *some years since*, the name of the ship conveying the mail in which that letter went, but he cannot now recollect it. Yours ever,

R. BOURKE.

And this is followed by a second communication, dated March 4th, 1826, saying,

MY DEAR DONKIN,—Since I wrote to you on the 2nd, I have been informed by Sir Richard Plasket that upon examining some heaps of papers, preparatory to Lord Charles Somerset's departure, Lord Bathurst's letter to you was discovered.

It seems that the *duplicate* arrived *here before* the *original*, and the duplicate was returned (as has already been stated) to Downing-street for you—afterwards came the *original*, &c.

Now, my Lord, I must beg leave to call your Lordship's attention to the following points; not under any expectation that your Lordship will be able either to reconcile, or to understand them, for I can do neither; but that this whole transaction may come before your eyes in one connected point of view.

In the first place, here is a despatch from your Lordship, as Secretary of State, conveying the King's approbation to one

of his subjects, and which despatch was withheld from him to whom it was addressed, for nearly five years.

Secondly, comes a declaration from the Postmaster-General at the Cape, that all despatches from your Lordship are carried at once to the Government House, in the bag or box in which they came, and which is never opened by any body at the Post-office.

Thirdly, comes the distinct admission, by Major-General Bourke, *in the name of Lord Charles Somerset*, that both the *original* and *duplicate* of your Lordship's despatch had formerly arrived at the Cape. And he states, too, that Lord Charles Somerset told Colonel Bird, "*some years since*," the name of the ship in which the despatch for me was returned to Downing-street, and where your Lordship may easily ascertain if ever it was received, and if it was, why it was not forwarded to me.

Yet, fourthly, in spite of these marked facts, namely, *two* safe arrivals of the same despatch at the Cape, (which could not have left agreeable recollections with him who opened and read it *twice* over, and *therefore* was the more likely to be remembered,) and in spite of Lord Charles Somerset having told Colonel Bird even the very name of the ship, &c. "*some years before*," he directs Colonel Bird to tell me "*that he did not recollect any despatch* of the nature of the one I was in search of"!!! I declare to Heaven that I can scarcely believe my own eyes, when I read over these things thus placed in juxtaposition!

And now, my Lord, permit me to lay before you the despatch in question, than which a more honourable, more flattering, or more complete approval was never conveyed by a minister of the crown to a grateful subject. I make no apology for thus publishing a despatch so entirely personal to myself, for, by doing so, I disclose no official secrets, I betray no trust, nor do I make public a single fact affecting anybody or thing but myself, and this remark will apply generally to every thing I shall publish in this Letter.

DOWNING STREET, *Sept. 28th*, 1821.

SIR,—I have received and laid before the King your despatches marked "*separate*," of the 5th and 15th of June; and, although the departure of Lord Charles Somerset for the Cape has superseded the necessity of my con-

veying to you any instructions with respect to them, yet I cannot, at the close of my official correspondence with you, refuse myself the satisfaction of assuring you that His Majesty has been graciously pleased to express his approbation of the manner in which you have, during the absence of Lord Charles Somerset, administered the government of the Colony.

His Majesty is sensible that the settlement of so large a body of settlers as that sent from this country in 1819 imposed upon you a new and difficult duty; and although the Settlers have themselves given the most unequivocal testimony to the merit of your arrangements, yet His Majesty feels it due to you to express the sense which he entertains of the activity and zeal with which you applied yourself to fulfil His Majesty's views with respect to these individuals, to which may, in a great degree, be attributed the general satisfaction and comfort which now prevails amongst them. I have &c.

(Signed) BATHURST.

Now, my Lord, on this despatch I rest—for such a testimonial I never could either have looked or asked; but having received it, I will not allow the opinions expressed therein to be weakened, or set aside, by any subsequent acts or representations of Lord Charles Somerset, for want of a full and complete exposure of all the points bearing on this case, as it concerns me as well as the welfare of 5000 of my fellow-subjects, who were, by the deliberate determination of the Legislature and Government, enabled at a large expense to this country to emigrate to Southern Africa.

Soon after getting this despatch, I addressed the following letter to your Lordship.

PARK STREET, GROSVENOR SQUARE, *Sept.* 15, 1826.

MY LORD,—It is only lately that I have been able to obtain, through the intervention of Major General Bourke, whose interference I had requested before he left England, an authenticated copy of the despatch which your Lordship did me the honor to write to me on the close of my administration of the Government of the Cape of Good Hope, dated September 28, 1821.

The original and the duplicate have both been withheld from me, and it is only by the possession of the “copy,” which I now have, that I am enabled, thus late, to address your Lordship in those terms of respect and dutiful thankfulness which such a mark of my Sovereign's approbation ought to call forth, and which I beg leave now to offer, and at the same time to express to your Lordship the high sense I entertain of the manner in which you have been pleased to convey to me His Majesty's gracious approbation.

I will not trouble your Lordship with any observations or inquiries as to the possible causes which have thus, for nearly five years, withheld from me the *official* knowledge of the existence and tenor of this (to me) most invaluable

document ; but I think it right that your Lordship should know that having learnt in this country that such a document existed, I have repeatedly applied to the Secretary of the Colony at the Cape to have it sent to me, when I have always been informed that no such paper was to be found ; and when I received it, I was preparing to address your Lordship, to request that as the Governor of the Cape of Good Hope had landed in England, you would be pleased to direct inquiry to be made of him if he had any knowledge of the causes which had intercepted a gracious communication from my Sovereign to me, and prevented me from receiving the highest reward I could receive as a subject and an officer, namely the King's clearly expressed and entire approbation both of my administration in general, and of the manner in which I had conducted the settlement of the large body of British subjects who came out to the Colony in 1819.

I am not without fear that your Lordship may, in this long interval, have imputed my not acknowledging your Lordship's despatch to either negligence or to a want of a due sense and gratitude for so distinguished an honour ; but having taken this opportunity of showing to your Lordship the real cause of my silence, it only remains for me to say that as soon as your Lordship comes to town, I shall, with permission, pay my respects personally to your Lordship, and assure you with what entire respect I have &c.

R. S. DONKIN.

Some time after this your Lordship came to town, and I took an opportunity of seeing your Under Secretary, Mr. Hay, and of stating to him the objects I had in view in soliciting an audience of your Lordship, which were two : First, to offer my most grateful and dutiful thanks to my Sovereign for the despatch of which I have been speaking ; and secondly, to ask your Lordship to submit to his Majesty my name, with *your recommendation*, that I should receive some mark of his Royal favour for service done and acknowledged under you, and which I had particular reasons for wishing to receive, after all that had occurred at the Cape, and the change which I thought I perceived in your Lordship's disposition towards me, but which I distinctly disclaimed all intention or wish to obtain with the remotest idea of conveying censure or disapprobation towards another.

This was the message left to be conveyed to your Lordship, and when, by Mr. Hay's desire, I called two days after to know your Lordship's pleasure, I received, instead of *admission*, a letter from you, which having read, had the effect of convincing me that I was labouring under some mistake, and I retired with feelings to which your Lordship's high station can never have exposed you, and of which you therefore can have

no idea. but I can assure you they were by no means of an agreeable nature ; and after a deliberation of four months, they have produced this address to your Lordship.

I will confess, my Lord, that there was a *third* subject on which I did expect and hope to have had some conversation with your Lordship. but I could not touch on this to Mr. Hay, because the mention of it would be contingent on your Lordship's first introducing it : I mean the real state and history of the Settlers in Albany, the causes of their numerous distresses, and other matters connected with a subject with which I am, or ought to be, intimately acquainted ; but the repulse I met with extinguished all expectations of that sort, and I must therefore have recourse to this mode of laying before your Lordship's eyes some truths and some information which I had rather have conveyed in another way. had the opportunity been afforded to me.

Your Lordship will recollect, that when Lord Charles Somerset returned to the Cape, and relieved me in the government, I had occasion to make a Report to your Lordship of some remarkable circumstances which took place at the time, and to which I allude here only for the purpose of mentioning that the consequence was, Lord Charles Somerset neither saw me, nor had any communication with me, either relative to the new settlement in Albany, or to the colony at large, the government of which was about to pass from my hands to his. How he could reconcile this to a proper and faithful discharge of his public duty, it is neither my business nor my inclination to inquire ; but—such was the fact—we never met nor exchanged a word together.

He appears to have landed highly dissatisfied about something, and with expressions and feelings very hostile to me : with his satisfaction or dissatisfaction—with his hostility, or friendly feeling towards me, I have nothing to do. They were alike indifferent to me then and now ; but when he came forth with the formidable and incredible declaration, that “ He would undo all that had been done in his absence ; ” that “ all was wrong ; ” I began myself to share, on this account, in the alarms of the Colonists, who, as they had been happy for two years under my government, wanted no violent changes ; and they heard with terror of the deracinating process which

was threatened, and the sensation produced in Albany was beyond description.

When I say that the Colonists had been happy under my government, I say so without fear of contradiction ; for in the midst of those menaces and demonstrations, the public functionaries, the merchants, and other inhabitants, had the courage to wait on me *when out of office*, with two addresses, not only wholly unsolicited, but wholly unlooked for by me, and which I have transcribed for your Lordship's information ; and thus your Lordship will see that the first opinion you were pleased to form of me was in unison with the feelings of all that was most respectable and dignified in the Colony. I shall just remark here in passing, that having intimated to the Secretary of the Colony my wish that notice should be taken of these honourable testimonials in the Cape Official Gazette, he brought me for answer, that " Lord Charles Somerset would allow of no such thing." They appear, however, now before you, and therefore in a more important and dignified station ; and I cannot help hoping, and indeed almost believing, that your Lordship will read them with satisfaction on *my* account—for towards me, personally, your Lordship cannot have the slightest cause of displeasure.

Address of the Chief Justice.

SIR RUFANE DONKIN,—In the name of the Court of Justice, in that of his Majesty's Fiscal, and in that of the President and Members of the Burgher Senate, and other Public Boards and Functionaries here present, I beg to express to your Excellency, as his Majesty's late acting Governor in this Colony, our sense of sincere gratitude for your active and benevolent administration, which, under circumstances of some difficulty, has been productive of concord and tranquillity throughout this Colony.

The Court of Justice, in particular, in conjunction with his Majesty's Fiscal, and other Officers connected with that part of the public administration of this Colony, have to acknowledge your protection and support in the discharge of their arduous duties ; which, added to the tenor of your general conduct amongst us, claims our best wishes for your future welfare and happiness ; and, whilst the recollection of your administration will call forth sentiments of respect and esteem from the inhabitants of this Colony, they cherish a confident hope that you will not cease to be their well-wisher, and that you will warmly join our colonial friends in Great Britain in promoting our interests at home, whenever, and wherever, an opportunity may offer to do so.

Address of MR. T. C. CADOGAN.

SIR,—The Merchants of this his Majesty's Settlement of the Cape of Good Hope, warmly appreciating the high-minded principles of justice, integrity, and active benevolence, that have conspicuously marked, in their humble judgment, your truly meritorious administration of the Government of this Colony, during the period his Majesty was pleased to repose the trust in your hands, as late acting Governor, now respectfully beg leave to wait on you with this sincere homage of their grateful esteem, previously to your approaching departure for England.

Their spontaneous unfeigned thanks they present to you, Sir, for your accessibility at all times—for your unceasing and earnest study and promotion of the best interests of this Colony, for your strict regard to public justice, and your great diligence in the personal performance of your arduous duties—for the extension of the coasting trade, so virtually conducive to the future welfare of the new Settlements on the frontier, animated and fostered by the survey made by Captain Moresby, of his Majesty's ship *Menai*, whilst you yourself were upon the spot—for your most humane and judicious arrangements for the present and permanent comfort and prosperity of the numerous Settlers arrived from England—for the especial proofs of your attention to the commercial interests of this Colony, and thereby to those of Great Britain herself, by the foundation laid of a light-house, the establishment of Captain Marryatt's code of signals, in which you anticipated the desire of the gentlemen of Lloyd's, and by your proposed design of completing, if possible, the grand work of a break-water.

For these, amongst many other instances, both general and particular, of your late administration as acting Governor of the Cape of Good Hope, supported throughout by the able, upright, and efficient civil branches of this Government, the Merchants are happy in praying the favour of your acceptance of this expression of their acknowledgments.

May your valuable life, Sir, long be preserved for the service of your country and the happiness of your family and friends.

This brings me to the catastrophe of the new Settlement in Albany. I hear that Lord Charles Somerset denies having made any such declaration on landing as has been attributed to him. I am quite willing to give him all the benefit of such denial, and to assume that that story had its foundation in the alarms only of some inhabitant of Cape Town. What will that do, or how will such denial affect what I am going to detail? for I am going to deal with Lord Charles Somerset's **ACTIONS**, and not with his *words*, about which I should never have thought a second time, if they had not been followed up by a series of actions in perfect keeping with the astounding denunciation attributed to him, and reported to me, by at least a dozen persons, who say they heard it.

Not a day was lost. Measures were immediately taken for the subversion of every Establishment, civil and military, formed by me. Neither Thing nor Person was spared ; and the whole of my arrangements for the Settlers, which had received your Lordship's repeated approbation and the strongly expressed thanks and approval of the Settlers themselves, was without inquiry, without information, and without *authority*, at once swept away.

I say, my Lord, without inquiry, for, as I have already told you, Lord Charles Somerset never saw me, nor put a single question to me. I say, without information, for he neither took time, nor showed the least disposition to communicate with the Settlers themselves, and he refused to hear what Colonel Bird, the Secretary of the Colony, wished to communicate to him.* The whirlwind was at its height, and what with dust, noise, and vertigo, Reason and Reflection were blinded, and thrown headlong into the vortex.

But I have said that all this extraordinary proceeding was carried on without *authority*, and this I say in the name, and on the behalf of your Lordship ; for I will never allow myself to think, nor any man to say uncontradicted, in my hearing, that such an inconsistency can have prevailed in your great office as for you to tell one man, myself, for nearly two years, that all he had been doing in regard to the Settlers was *right*, and that you could then directly send out another man with authority to overturn the whole of it, *because* it was *wrong* ; but if I have not proved by reasoning and inference the impossibility of Lord Charles Somerset having your Lordship's authority for the work of destruction in which he engaged so precipitately, I will prove by a fact that he had it not—by the fact that he was followed out to the Cape by a despatch from your Lordship, written *after* he had sailed, and dated the †29th

* I have this from Colonel Bird himself, in answer to me, when I reproached him for not having made battle, and protected my measures, concerted in perfect concurrence with himself.

† Colonel Bird has already been made answerable for so many offences which he never committed, for instance, Buissinne's appointment, &c. (see my letter to Lord Caledon in the Appendix, marked B) that I feel myself called on to take care that no additional ones shall be laid on him through my fault. I therefore distinctly declare that I did not come to the knowledge of this despatch by his means ; and farther, that Colonel Bird's name shall

of September, 1821, in which you acquaint him that "his Majesty" approves of my having "established part of the African corps on the River Beka, under the regulations I had drawn up," which is followed by a flattering approval from your Lordship of the details I had there entered into; and you conclude your remarks, so honourable to me, by saying that my establishment of the African corps on the Beka "will mainly contribute to the security of that part of the frontier and to the future defence of the Colony;" and so it did, while it was allowed to last; but, no sooner were it and my other arrangements swept away, than Kaffir parties crept in, and murder, plunder, and devastation were the result, as I shall abundantly prove by extracts which I shall subjoin.

But, to go on with this posthumous despatch, for so I must call it, for it did not arrive till the work of destruction was complete, your Lordship signifies the satisfaction his Majesty had derived from hearing of the progress of the buildings at Bathurst; but before this despatch reached the Colony, the precipitate and ill-judged measures of Lord Charles Somerset had burst upon these buildings, and they had crumbled into dust. The importance of opening the Kowie River is next touched on by your Lordship, on which I had dwelt with anxiety, and towards which I had peculiarly called your Lordship's attention; but the Kowie and its nascent commerce were allowed to stagnate, until at a subsequent period Lord Charles Somerset was compelled (probably by your Lordship's orders) to repair such mischiefs as were reparable, and a great parade has since been made about Lord Charles Somerset's opening the Kowie, as if he had either originated the idea or created the port; a port which I had particularly designated as the stimulating principle of Albany and of the town of Bathurst, of which town your Lordship says in the next sentence to the one which I have quoted, that "Bathurst must become the principal town of the district in which it is situated,"

be affixed to every piece of information or subject for which I am indebted to him. I protest against any blame being attached to him for corresponding with me after I left the Cape. It was his duty to do so. He was attacked, and I was attacked, in a thousand ways from the Cape; and I have the authority of Burke for saying, that "when bad men conspire, honest ones should unite."

and this you have said of a town which I was proud of having honoured by your name, but which when your despatch arrived had already ceased to exist !

Your Lordship's despatch, which I have been citing, goes on to a general approval of my other arrangements, and of one of them you are pleased to say that "to a measure so admirably calculated to alleviate their (the Settlers') distresses, without material, if any injury to the public, your Lordship (meaning Lord Charles Somerset) will be disposed, without any instructions, to give every encouragement."

What Lord Charles Somerset's feelings must have been on reading this despatch, I do not pretend to say, but I do not envy them ; I have however sufficiently proved, *demonstrated*, that he had no authority from your Lordship for the precipitate and wanton ruin he inflicted on a struggling population of his fellow-countrymen, some particulars of which I shall now proceed to give. Before, however, I enter upon this, I must recur once more to Lord Charles Somerset's conduct towards me on his landing at the Cape. It was such as conveyed to me, and to many others there, the idea that I was a proscribed person at home ; that I should meet with an ungracious reception from my Sovereign and his Minister, under whom I had been acting ; and, in a word, I believed, and so did others, that Lord Charles Somerset's behaviour was the reflection or echo of your Lordship's own feeling towards me ; and under this painful impression I had to traverse above seven thousand miles of the ocean, nor was I undeceived until I waited on your Lordship in Downing-street ; for, my Lord, your last approving despatch had not then reached me, nor indeed did it reach me, as I have already shown, till five years after it was written.

Your Lordship's obliging reception of me, however, and your informing me that such a despatch existed, quieted my mind, and enabled me to go, first to Yorkshire and thence to Scotland, to see my dearest and closest connexions, and to embrace almost all that the hand of death had spared to me of my own family, a beloved child ; but the uneasiness I had suffered at sea from the apprehension of your displeasure, operating on a health already shattered by deep affliction, rendered quiet necessary to me, and I was in hopes to have found it in the bosom of those families with whom I went to seek for sympathy and

consolation in my domestic sorrows ; but I was not long allowed either to indulge in my grief or to contemplate my child in peace ; I was followed into the North by an inquisitorial string of one hundred and twelve points, each amounting to an interrogatory, on which I was called to give answers. The paper containing them, and which was sent to me, and very necessarily sent to me by your Lordship's order, bore *no* signature, and I then knew not whence it proceeded. I have since been informed by the Inspector of Lands and Woods at the Cape that Lord Charles Somerset had ordered him to draw up this list ; but that honest and intrepid public servant, Mr. D'Escury, wrote me a letter, disclaiming any participation or knowledge of any remarks which might be introduced into a column he was ordered to leave for their reception, between which, and the list itself, he drew, as he tells me, a "triple line," that the remarks might not be attributed to him ; but this matter he has himself most fully developed in an official paper I shall soon have to cite.

The singular circumstance in this list (a list of grants of land made by me) was that a prominent grant of mine, which was omitted, and consequently not animadverted upon by Lord C. Somerset, was a grant to his son, then a captain of cavalry in the Cape corps, and Deputy Landdrost, that is, chief civil Magistrate of the district of Albany ; two offices which some people thought not very compatible, in a very young man too, whose habits, as a cavalry officer, it is no incivility to say, were not likely to lead him to the study of the Corpus Juris or any other Digest of the Imperial law, which law, however, was to be his guide in the administration of justice as a Judge.

This grant of mine to Captain Henry Somerset, and which was omitted by Lord C. Somerset, was in itself highly objectionable and improper, and *I never should have made it had the real circumstances of the case been laid before me by the Deputy Landdrost, when he made me the accustomed official report on his own application for it.*

On this grant of mine his Majesty's Commissioners of Inquiry have very properly animadverted in their Report to your Lordship, although in very gentle terms ; but I conclude that their most just observations will have caused its resumption

and restoration to the commonage of Graham's Town, from which it never ought to have been dissevered for private advantage. While on this subject I will add that I am quite ready to rest my character and conduct, as Governor of a colony, on the answers and explanations I gave to this list, although I had not with me in the country one single document to refer to. In these answers and explanations I have developed the general principles of the political economy of the Cape, and its statistics, in a way which will prove that whatever errors I may have committed during my government, I am not chargeable with a want of industry, nor with not having used my best endeavours to make myself thoroughly acquainted with the real state and interests of the people confided to my care.

But, my Lord, this is the place for me to inform you how, and in what manner, Lord Charles Somerset drew up papers for *your* inspection ; and what I am now going to state, *from the Report of the Inspector of Lands and Woods to His Majesty's Commissioners*, will prove to your Lordship and to all England, how impossible it was for you to form a correct idea of what was really doing at the Cape, when you were subject to the representations and guidance of a man who could act as Lord Charles Somerset has done in regard to the Report he made to you on my grants of land ; and I beg leave to be allowed here to enter my protest against any inference being drawn from any thing I have said in this letter, that I myself impute blame or that any one else has a right to impute blame to your Lordship, for not being more correctly informed as to Cape matters. You could not help yourself, my Lord ; your only organ of communication was the Governor. You were at his mercy, if he chose to encounter the appalling risque of blindfolding and misleading you. You *could* have no other source of information, unless you had condescended to establish a system of espionage over him—a measure as abhorrent from your personal character, as it would have been unworthy of you as an English gentleman.

My Lord, I am sorry that the extract which I am going to make is long, but it is authentic ; for it is made from Mr. D'Escury's official vindication of himself, in a Report addressed to the Commissioners of Inquiry, and dated "Inspector of Lands and Woods Office, 5th December, 1823."

The Inspector begs leave distinctly to state that he has here inserted the foregoing explanation, feeling it due to himself most unequivocally to disavow any participation, on his part, in the incorrectness of the returns made of Sir Rufane's grants as sent home in 1822 ; the inexpediency of which he respectfully, but strongly, pointed out to His Excellency at the time he was ordered to alter the returns first made out by him. He disavows also, in the fullest manner, having any knowledge whatsoever of any remarks that may have been made on these several grants as sent home, never having had any communication respecting them, nor having seen a single syllable of what they may contain. All the Inspector has ever known, of even the intention of adding remarks to those returns, was, His Excellency directing him to leave a broad column vacant, to be filled up by himself, with *his* remarks. And he begs leave to add, that the moment he was informed, on the authority of a letter from England, that the returns of Sir Rufane's grants, and the remarks upon them, were there considered as having proceeded from the Inspector's Office, he lost not a moment in writing to Sir Rufane Donkin, and to request him to give the necessary explanation at the Colonial Office at home, to the purport above stated, which he has reason to think was done accordingly. Still he conceives that so disgraceful an imputation, as must attach to any one who knowingly makes out incorrect returns, (and the Inspector must have known these to be incorrect, the materials for making them out being in his own office,) cannot be too frequently, nor too strongly contradicted ; he therefore embraces this opportunity as the first that has presented itself for doing so *officially*.

The Inspector begs leave also to add an Explanatory Memorandum on this subject, showing the different transactions respecting the preparing of the returns of Sir Rufane's grants, so far as he has been concerned in them, and to say that he is fully prepared to answer any further questions His Majesty's Commissioners may think necessary to ask, in vindication of the part he has had in those returns.

Explanatory Memorandum.

At an early period after His Excellency's return to this Colony, the Inspector of Government Lands and Woods received His Excellency's commands to make out returns of the grants made by Sir Rufane Donkin, while in the administration of the Government during His Excellency's absence.

These returns having been completed, His Excellency wrote to the Inspector on the 28th February, 1822, that " the list was not made out in the manner he had wished, having (as His Excellency conceived) particularly expressed that the grants which went through the regulated ordeal* should be omitted, as well as those to officers who *deserved* consideration. It did not belong to the Inspector to judge of the deserts of military officers, he could therefore not act on this part of His Excellency's directions. Those grants which were

* "*Ordeal*." Although Mr. D'Escury writes English very well, he is not an Englishman. By "*ordeal*" he means no more than a certain official process and examination, ending ultimately in his Office, through which all grants of land are supposed to go before the grant is made.—R. S. D.

to be inserted, (His Excellency added,) I have marked with a X on the list of returns above alluded to."

Accordingly, the Inspector made out a *second* list in conformity to those directions, as crossed off by His Excellency on the first list, which when completed still did not please His Excellency, and a *third* list was directed to be made, *copied from the numbers on the first list, which His Excellency, in his own hand-writing, gave to the Inspector for that purpose.* The selections so made in the first instance, and the consequent state in which His Excellency intended to send those returns home, appeared to the Inspector so *irregular and hazardous*, that he felt it a duty, both to the Governor and to himself, to point out what he thought objectionable in them ; and having arranged these objections under their several heads in a memorandum, for his own satisfaction and use, he ventured to represent those objections to His Excellency in his first interview with him, after having sent in the first corrected list ;—the Inspector has here added a note, giving the numbers which, although the declared object of this list was to send home those grants *only* that had not passed through the regular forms, are of that description, but nevertheless were directed *by His Excellency to be left out*, which consequently the Inspector considered as a very strong objection to being sent home ; and which could not fail being pointed out by Sir Rufane himself whenever he should be called upon to explain his reasons for having made the other grants so complained of, the more, as the principal grant among those *so omitted was that to Captain Somerset*, to which the others, also left out, it might have been construed, were added *only as a cover*, and would then give to the whole a very unfavourable appearance.

In a note the Inspector received from His Excellency on the 17th April, 1822, in reply to one from him respecting the re-copying of some of the sheets, His Excellency says,—“ There is no necessity for having this paper written over again ; as I must keep a duplicate, that one will serve extremely well.” The whole must therefore have been copied in His Excellency’s *private Office*, and the Inspector can therefore *not vouch for any part of what has actually been sent home*, as it is very possible that still further alterations may subsequently have been made, with which the Inspector has not been made acquainted, any more than with the remarks His Excellency has thought proper to make upon any of the grants those lists contained, for which His Excellency directed that a very broad column should be made, and left vacant, to be filled up *by himself*.

Note alluded to in the Explanatory Memorandum.

The declared object His Excellency stated to have in view by transmitting a list of the grants made by Sir Rufane Donkin, was that His Excellency felt it to be “ one of his first duties not to conceal ” the misapplication of the public property manifest in those grants, and therefore more particularly selected those which did not go through the regulated ordeal previous to their being determined upon ; the following are of that description, yet they were nevertheless, according to His Excellency’s own correcting, directed to be left out.

In Uitenhage.

Perpetual Quit-rent.

J H. Stædal	4 morgen, at Rixdollars	1 Rent
Captain Somerset	296 Do.	2 Do.
J. Blakeway	318 roods	1 Do.

What induced Sir Rufane to grant this very valuable piece of land, taken from the pasture ground of Graham's Town, to Captain, now Major Somerset, does not appear; but it is difficult not to feel surprise, when, although this grant *was by His Excellency's direction omitted* in the list made out by the Inspector, it still belongs to those His Excellency so strongly disapproved, that, nevertheless, His Excellency should almost immediately after his return, viz. 15 January 1822, have added *another* valuable portion to this very grant, to the extent of 178 morgen, (356 acres,) at only five Rixdollars per annum, notwithstanding that the removing of the seat of local magistracy to Graham's Town, and the consequent extension of that town, then already in contemplation, had *rendered the reserving of that land the more essential*; yet this additional grant was made by His Excellency, and that, too, without suffering it to pass "*through the regulated ordeal*," the omission of which he so much reprobated in Sir Rufane's grants.

Whatever His Excellency's motive may have been for not sending home the original general returns, the Inspector cannot presume to investigate. His Excellency says in his note of 28th February 1822, that it was in order not to give my Lord Bathurst the trouble of picking out those grants to which he wished to draw his Lordship's attention, from among those that had gone *through the regular forms*; but from this trouble his Lordship would have been equally freed by the remarks His Excellency intended to write opposite to particular numbers, which of course would have attracted his Lordship's notice distinct from the others, and the whole would then have been a regular and complete document; whereas now, it remains to be explained why such or such grants were omitted, while such or such others, under corresponding circumstances, were added, and so vice versa, which gives to these lists as sent home, the character of a *partial statement*, instead of a regular official document, and being thus irregular throughout, yet being known to have been prepared at the Inspector's Office, the Inspector, as stated before, feels it due to himself to disavow any participation in the said irregularities; which as they must unquestionably have been pointed out by Sir Rufane himself,*

* I never took the trouble of doing this—I met the 112 accusations at once in the face, and gave in my justification of the *principles* on which I had acted. There is not one of those grants which I would not make over again, on principle, save and except only the grant to Major Henry Somerset, who, as Deputy Landdrost of Albany, in reporting it officially to me, made such a Report as misled me, and induced me to make a grant to him, which I have admitted to have been improper and unjustifiable. Yet this is the *very grant* which Lord C. Somerset thinks proper to leave out of a paper meant to enlighten the Secretary of State on the nefarious practices of my corrupt administration.—R. S. D.

would consequently, unless so disavowed, be imputed to the Inspector, either through neglect or otherwise.

C. D.

But to resume. No sooner had I got rid of these 112 interrogatories, than I was pursued to Rome with more correspondence about the Cape. The inquisition was resumed on my return to England, Lord Charles Somerset still instigating it from the Colony. Your Lordship's Under Secretaries have been absolutely fatigued, and no doubt surfeited, by the immense correspondence they have in succession carried on with me, *up to Saturday night last inclusive*, when I received a letter from Mr. Hay, desiring an answer to a question which I had answered *in full* above three years before to Mr. Wilmot Horton. This letter of Mr. Hay's was precisely the last atom, which, by its addition, rendered the load insupportable any longer, and which determined me to throw it off. But is it to be wondered at that my patience is at length exhausted? Is it to be wondered at, or can your Lordship be surprised, or displeased, at my being roused at last, after five years' forbearance, to do myself justice, and in this public manner to bring to issue the plain and simple question, whether your Lordship was right or wrong in the *first* opinion you were pleased to form of my services? and whether or no the tone of your correspondence, and your late refusal to see me, coupled with many other circumstances, are to be taken as proofs that Lord Charles Somerset has satisfied your Lordship not only that my principles of Government were *wrong*, but that all he has done, and undone, is *right*?

To an award on this point I look as an act of justice, and to this award, if I do not obtain it sooner, I shall call the attention of the House of Commons, if I have the good fortune to establish my seat there.

There is one point on which I wish to explain myself fully to your Lordship before I go into details. It may possibly be asked why I did not, or why I do not now come forward, with specific charges against Lord Charles Somerset, and demand a public investigation of his conduct.

My answer will be short, and I hope satisfactory to everybody.

First, I do not recognize either the right in any other person,

nor any duty within myself, by which I can, or ought to be, compelled to come forward in my private character, and assume the odious office of Public Accuser of any man.

Secondly, I do not now bring—I do not mean to bring, even if I get into Parliament, *charges* against Lord Charles Somerset. All I am doing here, and all I should do there, is to institute an Inquiry into the comparative merits of his conduct and mine. We cannot *both* be right. The only Charge, or Accusation, if it may be so called, that I bring against him is, that he overturned all my institutions, without inquiry, information, or authority. He may, however, have had secret information, and secret authority, of which I knew nothing ; and if he had, let him but produce it, and I am silenced.

I do not dispute the right of one Governor to reverse the acts of another, if he has good cause ; but I do dispute and deny the right of one Governor to overturn the acts of another without any reason at all, except that he disliked the individual whose acts he was so overturning. But, my Lord, you will never allow, at this time of day, the “ *Quicquid delirant Reges, plectuntur Achivi* ” to be brought into practical operation in a colony under your protection.

One of us, either Lord Charles Somerset or myself, has been a “ *Rex delirans*,” and the unhappy people have been sacrificed and crushed in our conflicting policy. It is time that he who really caused all this mischief should be known by the public. The mischief lies in a small compass of inquiry, for it lies wholly between Lord Charles Somerset and myself.

The first indication I perceived of the system which was about to be carried on was in a despatch from your Lordship to me, but brought out by Lord Charles Somerset, and written, as I respectfully submit, at his desire, acquainting me that your Lordship could not sanction the appointment I had made of Major Jones to be Landdrost of Albany. Far be it from me to impugn, or even to doubt the right your Lordship has to refuse your sanction to any and every colonial appointment made by Governors acting under you ; but I do flatter myself with the belief that had your Lordship been aware of all the facts which were connected with this appointment, and if you could have foreseen the mischiefs which immediately resulted on Major Jones’s dismissal, you would never have been pre-

vailed on to consent to it, and your Lordship would have had an additional reason for pausing, had you foreseen the effect this dismissal (for which I believe there is scarcely a precedent to be found in the whole history of the Colony) had on the independence and conduct of every Judge and public functionary within the Government.

A Landdrost, my Lord, at the Cape, is an officer analogous to the Lord Lieutenant of a county in England, with the difference only, that he has much more power; and that he, besides, presides judicially in a court of civil and criminal jurisdiction of an extensive nature, and which, up to a certain point, is a tribunal of last resort, to which there is an appeal from certain lower courts, but from which there is no appeal, unless the case be of a magnitude so as to be placed beyond the point I have alluded to. The effect produced in the Colony by the *dismissal of Major Jones* was prodigious. "If," said the Colonists, "Lord Charles Somerset has power to do *this*, we are none of us safe;" and the whole magistracy and public functionaries of the colony were at once prostrate at his feet, deprecating his wrath, and looking up to him, imploring forbearance! The whole moral feeling of the colony received a shock by this blow, from which it has not yet recovered, nor will it recover while there is a possibility of Lord Charles Somerset ever returning to rule them.

Of Major Jones, I shall simply say here, that while he was in office, he not only completely fulfilled all my expectations, but he gained the affection and confidence of the Settlers in Albany, all of whom within reach accompanied him on his dismissal to the boundary of the district, and there took leave of him with tears and expressions of unfeigned regret; and those who could not, from distance, shew him this mark of respect and attachment, sent after him an address full of affection and grief at his departure. But your Lordship was pleased to observe to me, in the despatch which removed *Major Jones* from his office, that to perform the duties of such a station well, a person should have "much experience in the Colony, united to other qualifications." If, my Lord, I had had the honour of being near you when you were writing that despatch, I should have taken the liberty of respectfully asking, what experience of a *Dutch* colony could be necessary for the

superintendence and management of several thousand *British* settlers, living by themselves, totally unmixed with Dutch inhabitants, and insulated from the other districts of the Colony by rivers, woods, mountains, or by considerable uncultivated spots of land, men who really and literally were “*Toto divisos orbe Britannos!*” But, my Lord, after all, whom did Lord Charles Somerset appoint? A man who, perhaps, had never been above twenty miles beyond Cape Town, where but little is to be learnt of the real state of the interior; a man who never held any colonial office but that of wharf-master, which was created for him by Lord Charles Somerset, and who originally held a small office in the East India Company’s service; a man, in short, who, from the moment of his arrival in Albany, threw every thing into confusion; with whom Lord Charles Somerset subsequently quarrelled, as your Lordship will have seen by those most extraordinary documents which this new Landdrost delivered up to the Commissioners of Inquiry; I mean Lord Charles Somerset’s private correspondence with, and instructions* to, this individual *before* they quarrelled, and whom Lord Charles Somerset subsequently removed after he had completed the destruction of Bathurst and the subversion of all my institutions. And in regard to the “other qualifications,” to which your Lordship is pleased to allude, *Major Jones was possessed of them in an eminent degree.* He was gentle, brave, open, and kind hearted; well educated, well acquainted with human nature, pushing the point of honour and right *thinking*, as well as right *doing*, to a chivalrous extreme. In addition to all these personal qualifications, he was of noble descent and of most noble connexions, for he stood amongst the nearest relations the late premier Duke of England had, being first cousin to the late Duke of Norfolk; and he is in the direct descent of one of the oldest baronies in the realm, still in abeyance, the right

* This, if ever brought forward by the Commissioners’ report, will produce a strong sensation here. It cannot be withheld on the ground that it is *private* correspondence, for it was the canon by which all the Landdrost’s *public* conduct was to be regulated. We have been viewing hitherto Lord Charles Somerset acting in office publicly as a Governor. I should like to see him in the less formal state of undress in this correspondence, and thereby ascertain whether or no we may apply to his administration, the “*Induitur ormosa est—exuitur ipsa Forma est.*”

of his family to which was recognized by his late most noble relative, who, both from his own taste and researches, as well as from his office of Earl Marshal of England, must be allowed to be authority on such a subject.

Such was the GENTLEMAN spurned from his post, to make way for the man of Lord Charles Somerset's choice.

The *manner* of Major Jones's removal, with other circumstances, is detailed to me in a letter from the Cape, from which the following is an extract:

Jones was removed in the most revolting and insulting manner from the frontier, where he was liked, and where every thing was working smoothly under him, to make room for a man without experience or talent, and who did not take with him any one qualification which could gain the esteem of those whom he was to rule. The consequence was that he has been the object of the most vulgar abuse ever since he has been there; and as the military command has been made distinct from the civil one, he is shorn of one half of the exterior consequence his predecessor had—in fact he possesses no real authority, and is frequently set at defiance.

I have other letters written about the same time, to the same import as the above, but the letter from which I have quoted, goes on to say—

He (the new Landdrost) has had much dirty work to do, to ruin the town of Bathurst, and with it, all the Settlers in the vicinity; to crush Fredericksburg, to the entire ruin of all located there. We understand that both these measures of yours were approved from home, and they indeed were eminently calculated, the one for the prosperity of Lower Albany; the other, for a cheap and efficient protection against Kaffer invasion on that side. . . . Fredericksburg is to be replaced by a fortified barrack, as protection on that side cannot be dispensed with. It is not to be supposed that the suffering Settlers endure, silently, measures which so materially injure them. Their memorials which have, I hear, been transmitted to you, show that they feel the injury keenly. The only reason which can be assigned why this ruinous course is pursued is the pitiful one that these were the measures of another Administration! The public, unfortunately, pays. The buildings which had been erected at Bathurst are a total loss; others on a far more magnificent scale are commenced at Graham's Town, and paid for by anticipation, while those at Bathurst are left to crumble. There is not even an individual who is supposed to have received protection and countenance under your government who is not made an object of persecution.

Yes, my Lord, the "public does unfortunately pay," as my correspondent says, and my establishment at Fredericksburg (which not only did not cost the Colony or England one shilling, but which produced a saving to the amount of transport hire

to England, and of six months' pay to the officers located there) was to be replaced by an expensive barrack, the cost of which I hope some day to know ; and my buildings at Bathurst, to complete the whole of which would not have required above 30,000 Rixdollars, have been allowed to go to ruin, in order that other buildings, which have cost 400,000 Rixdollars, should be erected at Graham's Town, where they are most improperly placed,* to say nothing of their being founded on the ruins of Bathurst. And now, my Lord, I will proceed to the history of that ill-fated town.

The establishing of Bathurst was no hobby-horse nor favourite fancy of mine. The idea of it is not even my own. The necessity of some central point of re-union for the Settlers and for the civil magistracy, away from Graham's Town, which was distant from the majority of the locations, and was the military station, and on that account not desirable, as the point on which all the infant *civil* institutions of a rising Colony were to be appended, was first suggested to me by some of the Settlers themselves, who generally were the best judges of their own wants. But I am indebted to the selection of the site to the local knowledge of Colonel Cuyler, who had been thirteen years Landdrost of the adjacent district of Uitenhage, and to the discriminating judgment of Mr. Henry Ellis,† Deputy Colonial Secretary, whose able and active assistance, as well as that of the Secretary to the Colony, Colonel Bird, in the arduous task of locating above 5,000 British Settlers I am glad to acknowledge again here to your Lordship. Thus, then, neither the original idea, nor the selection of the spot was mine ; and the approval of the measure, my Lord, was *Yours* : and thus the fact is come out, that Lord Charles Somerset, in his destruction of Bathurst, was warring not with me, but with the defenceless Settlers, with the Landdrost of a district, with the Deputy Secretary of the Colony, and—with your Lordship ! All I did was to visit the spot with several Settlers, with the above named two gentlemen, and with the chief engineer of

* To understand these and other local allusions a map is necessary, and a map of the new Settlement, from a survey made by my orders, may be had at Wild's, late Faden's, Charing-cross ; or at the publishers', in Bond-street.

† Mr. Ellis is now in London, and to him I appeal boldly to confirm all I have said about the town of Bathurst.

the army, and to fix on it as the future capital of Albany, after having ascertained that there was *abundance of good water* : a fact, I beg leave strongly to press on your Lordship's notice, for reasons which you will probably quite understand.

Bathurst was then marked out in streets and building lots. It was quite a jubilee and an excitement to the Settlers ; and, next year, when I visited Bathurst a second time, I was quite astonished at the progress the town had made, and of which I transmitted to your Lordship a faithful Report. The details* into which I went, I will not trouble your Lordship with here, because they are already officially before you in my despatches from the Cape, and because, indeed, it would be most improper in me to cite passages from any part of the correspondence I had the honour of holding with your Lordship when I was in office, and which related to the duties of the Government. Some months after, I was most amply rewarded for all the exertions I had made, and the fatigue I had undergone, (and these were not small), by receiving from your Lordship an approval of all I had done.

I shall here, my Lord, insert extracts from the memorial of the Settlers, referred to by my correspondent just quoted, and which was addressed to your Lordship, but which may, perhaps, never have reached you, and which the memorialists, generally speaking, assure me they believe it never has. This memorial or statement is dated March 10, 1823.

The subscribing Colonists in South Africa, who emigrated in the year 1819, under the patronage of their native Government, are compelled, by a sense of justice to themselves, and of duty to the Government, under whose auspices they embarked, to lay before your Lordship a statement of the real circumstances which have prevented their advancement.

Whatever may have been the individual disappointments and failures incidental to so numerous an emigration, they *do not present themselves to His Majesty's Government with any complaint of the natural disadvantages of the country to which they have been sent* ; and they have ever been actuated by one undivided feeling of respect and gratitude for the liberal assistance of the British Government, a feeling which future reverses can never efface.

* * * * *

Although the Settlers must lament that in its earlier Stages the prosperity of their Settlement has been *checked in several important instances*, through the

* I have placed in the Appendix, several details and documents relative to the establishment in Albany, under the Letter B.

misapprehension of the general or local authorities, yet they gratefully acknowledge the prompt and generous exertions of Government in providing the means of subsistence, on the commencement of the Settlement, and in alleviating as far as possible, the severe visitations of repeated and total failure of their wheat crops ; and they cannot omit their expression of particular gratitude to the acting Governor, Sir Rufane Donkin, *who devoted to their prosperity a great share of his personal attention, to whom they owed the establishment of a town in the centre of the new Settlement, as the seat of its magistracy ; and a system of military defence, during which they were free from Kaffer depredations. By these measures, as well as by making arrangements for a friendly intercourse with the Kaffers, and by his solicitous attentions to the interests and wishes of the Settlers, he inspired them with a degree of energy and hope, of which they have now left only the Recollection !*

Here, my Lord, I beg leave to draw your notice to the fact that this grateful and feeling eulogium on me was written a year and a half *after* I had left the Colony, when these Settlers had not the least expectation of ever seeing me again, and when such an eulogium, in case it became known at the Cape, might bring down severe mischiefs on those who signed it. Addresses at the Cape are not very difficult to procure by a Governor *in power*, by means of promises, threats, or actual favours ; but had I attempted to blind your Lordship's judgment with addresses procured by *such* means, they would not only have failed in their object, but would have covered me with contempt and ridicule. The Addresses to me and *about* me, which I have submitted to your Lordship's eye, were made when I was *out of office*, and under the possibility of considerable inconvenience to those who abetted such measures.

The Settlers go on to say in their paper, that having been prevented by authority from holding a " meeting of a *small* number of the principal Settlers," for the purpose of submitting certain points to the Governor, they continue,

Being thus prevented from communicating with the Colonial Government they have for twelve months continued to labour under the effects of a series of measures calculated only to extinguish the small remains of enterprise and confidence that had survived the numerous disappointments they had previously encountered ; and when at length their situation, from the *increasing and unpunished incursions of the Kaffers had become really insupportable*, they were reduced to the necessity of requesting permission to meet in the manner pointed out to them as legal, for the purpose of making their situation known to his Majesty's Government ; but as this also has been virtually denied to them, they are obliged to content themselves with offering to your Lordship this imperfect, but faithful, sketch of their situation in

general, *but more particularly of the uniform reversal of every measure previously resorted to for their advantage.*

As it does not appear that many natural obstacles are opposed to their advancement, they are induced to submit a candid statement of the artificial disadvantages by which they are surrounded, in the confident hope that this Settlement will not be allowed to fall a sacrifice to them.

The memorialists then enter into details of their views and wants ; amongst others, of a considerable augmentation of the quantity of land allotted to each, the necessity of which I strongly felt, and which I was on the point of submitting to your Lordship when I was relieved. I had sketched out all the arrangement, and made a draft of my despatch ; and had Lord Charles Somerset communicated with me, I should have put this draft and arrangement into his hands, with my reasonings thereon, not as an instruction from me, to be forced on him, but as a measure for *his* consideration and decision ; but this, as well as a considerable variety of papers and notes I had prepared for his information and guidance, on a subject of which he *could* know nothing, and on which I ought to have known everything—I mean the actual state and wants and views of the British Settlers when he landed—he never afforded me an opportunity of giving to him ; for your Lordship has already learnt that he thought proper to hold no communication with me, and the consequence was he lost not only the benefit of any of my thoughts and plans which might be right, but he lost the equally useful and cautionary benefit of any of them which might be wrong.

The memorialists go on to say to your Lordship, that

The establishment of the town of Bathurst as its seat of magistracy was of the most material service to the Settlement, as, from its situation in the centre of the smaller parties, it served to sustain in its vicinity a denser population than the circumstances of the country could otherwise admit of. Its superior advantages of soil, its vicinity to the only part of the coast found capable of communicating with the sea, and the erection of the residence of the Chief Magistrate at the public expense, had induced many individuals to expend their means in establishing themselves there ; and the removal of the seat of magistracy, and the withdrawing of the troops and Government support from a town upon which they had fixed their first hopes, *and upon which depended all their future prospects of a market*, has been productive of the worst effects upon the interests and welfare of the Settlement in general, as, besides its directly ruinous consequences to individuals, it has drawn away the population from the nucleus of the Settlement, and *created a general distrust in the stability of the measures of the Government.*

But the most pressing and insupportable of their grievances arise from the constant depredations of the Kaffers, who have within a few months *committed several murders*, and deprived the Settlement of the greater part of its cattle. These depredations are in a great measure produced by *relinquishing that line of policy which held out to these tribes a hope of procuring by friendly barter such commodities as their newly acquired wants have rendered necessary,** and which they are now obliged to procure by force or theft, *by withdrawing the military force from, and discountenancing the new settlement at Fredericksburg*, and permitting thereby the Kaffers to plunder and force the Settlers to retire, and ultimately to burn it to the ground. *By withdrawing from the Fish River a line of posts which had previously effectually protected the Settlers*, by refusing aid to the more advanced† farmers, plundering parties have been encouraged to drive those in, and afterwards to extend their incursions to all parts of the Settlement, and even beyond it. By exasperating that tribe which had hitherto preserved the appearance of friendship, in attempting to seize their chief Gaika, in his own village, and by withholding from the local military authorities that discretionary power with which they were formerly vested ; which, by enabling them to enforce summary restitution, showed the Kaffers that the offence would be instantly followed by the punishment : whereas, by waiting the decision of the Commander-in-Chief, 600 miles distant, in every emergency, offences are allowed to accumulate to an alarming amount ; and the slender means of defence the Settlement possesses, deprived of the power of acting with promptitude, is forced to present to the Kaffers at once the appearance of enmity and weakness.

It thus appears to the Colonists that instead of the new Settlers ever deriving any advantages from the civilisation of the savages, the existing measures can lead only to a war of mutual extermination.

The paper concludes with a hope that better days await the memorialists, and it is thus signed,

GEO. PIGOT,
D. CAMPBELL,
THOS. PHILLIPS,
and two hundred others.

I beg leave here to inform your Lordship who those three persons are whose names are affixed to the paper before me.

“ Geo. Pigot ” is a gentleman of high family connexions, was once a major of cavalry, and well known to all the fashionable frequenters of Bibury (where I believe he was an acquaintance of Lord C. Somerset himself) and other races. He took out

* This alludes to a fair I had established on the Fish River, near a fortified barrack, but which was swept away with all my other institutions. It has since been re-established (as I am told) by orders from Lord Bathurst. My Regulation will be found in Appendix C.

† “ Advanced ” nearer than the rest to the borders of Kaffraria.

with him £5,000 sterling to lay out in improvements amongst the Settlers, besides having several hundred pounds a-year of income—a most valuable person in a new settlement, both on account of his rank and fortune ; but your Lordship will see, by an extract from a letter of his to me, which I shall subjoin, that the measures pursued in Albany after my departure had put a total stop to all his exertions and hopes.

“ D. Campbell ” is a half-pay captain of marines, and *was* full of energy and expectation. He is a gentleman of considerable acquirements, and preserves, like Major Pigot, a strong tincture of the military character.

“ Thos. Phillips ” was once, I believe, a banker of considerable opulence and respectability, and the “ two hundred others ” were, as I am informed by the letter which accompanied the memorial, persons of the greatest respectability amongst the Settlers, and included all the heads of parties. I will avail myself of this opportunity to do justice to the Settlers in general, who have been represented by some who either could not have known them, or who wilfully misrepresented them, as “ radicals,” “ reformers,” and “ turbulent in their conduct ; ” and I must declare to your Lordship, that taking them generally, I never saw in this country, or in any part of His Majesty’s dominions, a more loyal, more patient, or a better disposed people than these poor and afflicted Settlers ; and I have only to refer to the unaffected language of the memorial in proof of their gratitude for all favours received, their respectful submission to authority, and their confidence in the protection of his Majesty’s Government.

The following are extracts from Major Pigot’s letter to me to which I have alluded, dated April 8, 1823 :—

Poor Bathurst ! I passed through it the other day, and I could scarcely refrain from shedding tears ! The Drostdy house (the Magistrate’s house) unfinished, and already tumbling down ! Three or four inhabited cottages, with five or six skeleton houses, form what remains of the town ; amongst the latter mine makes one. My neighbour Delgarno has left his land ; he is quite ruined, with his three daughters, and their mother ! In fact, under the present system no one can remain. I have built a good house, cultivated a large tract of land, sunk £3000, and shall be obliged to leave the Settlement. We are treated more like convicts than free Settlers. If the British Government does not take up our cause we are all ruined ; but indeed that is the case already with the greatest part. How I regret that I entered on

this undertaking with the enthusiasm that I did. The interest you took, my dear Sir, in the welfare of this New Settlement, made us think we were always to receive the same attention, and encouraged numbers to expend their means in establishing themselves; others, more cautious, have been content to live in huts, and look on. These can now quit the Colony without regret or loss, while the industrious man feels regret at the labour he has thrown away; and with his family distressed, and his capital sunk, he will return home heart-broken. But I cannot believe that the British Government will permit us so to be treated; I shall therefore await the arrival of the Commissioners, but I *shall put an entire stop* to all expenditure. I am as partial to the climate as ever, and although we may expect occasional blights in our crops, it is my firm opinion, as it is of many others, that we may yet do well, if we are only let alone. Were our wishes and our interests in the least consulted, I should have no doubt of success.

The letter ends with the following sentence, after telling me that the labouring classes wish to escape from the Colony: "if this be the feeling of the lower orders, what must be mine, and of those similarly situated."

I subjoin also extracts from another letter, dated Graham's Town, December 10th, 1823, which I received some time after from another head of a party, the style and tone of which will show that he was not only a gentleman, but a man of education.

I believe Major Pigot sent you a copy of the Statement we forwarded to Earl Bathurst, which will have made you acquainted with the nature and number of our complaints against the measures of Lord Charles. We have now an opportunity of making good these* charges, and we shall take care that this is done effectually. Not only was Fredericksburg and Bathurst abandoned, but also the chain of military posts along the Fish River; the Kaffers, as may readily be imagined, poured in upon us, and have *unceasingly* continued their incursions and depredations ever since; nor was any effort made to check them till his Lordship accomplished his object of making his son a Major and Commandant on the frontier. . . . I will not say that this system of plunder was winked at by &c. . . . but I *do* say that the force upon the frontier, before the late augmentation of that (the Cape) corps was sufficient for our protection, had it been judiciously distributed and employed. . . .

. . . . The arrival of the Commissioners of Inquiry excited an intense sensation in this Colony, and the public mind has been ever since in a state of feverish agitation. I am confident the Commissioners could not have anticipated such a system of misgovernment as has already been laid open to them, although they have not yet done more than half their work. They are at present at Uitenhage, whence they proceed to Graaff Reynet, and thence to Albany. . . .

* By the arrival of the Commissioners.

. . . . How *our* Landdrost will stand the ordeal I cannot say, but if strict justice be done, I should think he would not be here long. His Lordship was singularly fortunate in finding a man so fit for his purpose as Mr. ———, who is never satisfied with the dull letter of the law, but who has the power and disposition of rendering every obnoxious measure infinitely more so by his manner of carrying it into execution. We have frequently been amused in witnessing the effect produced on him by the arrival and progress of the Commissioners, and by the numerous reports in circulation. At times he is seized with alarm at the approaching investigation, when he will become overwhelmingly civil to every one who has occasion to see him; presently he receives letters from his Lordship, which gives him fresh confidence, and he then relapses into his old habits, and makes up for his late civility by a double portion of rudeness and irascibility; and thus he is kept constantly betwixt the two extremes.

. . . . Wilberforce Bird has been the chief adviser and confidant since Colonel Bird has been out of favour. You probably have seen Mr. Bird's* work on the Cape of Good Hope, wherein he makes such efforts to misrepresent the conduct and character of the Settlers, and endeavours to convince his readers that we were disaffected at home, and discontented and factious in the Colony. We shall, as soon as we have a little leisure, publish a reply to that part of the work which relates to the Settlers, and it will not be difficult to show, that it is a tissue of misrepresentations and mis-statements from beginning to end. I cannot avoid quoting a few lines from the work (p. 186) to shew the incorrectness of his assertions. "He (the acting Governor) then found that notwithstanding all that had been done, the *extremely litigious disposition of a great part of the Settlers* induced them so frequently to appeal from the decisions of the local magistracy, to the superior district court, at the distance of 100 miles from the locations, that he deemed it expedient to obviate the inconvenience thereby created, by the appointment of a Landdrost and a full court of district municipal magistracy on the spot."† Mr. W. Bird does not, it seems, consider the addition of nearly 5000 individuals to the former population of Albany, a sufficient reason for the "appointment of a Landdrost and a full court on the spot." But the best of the matter is that there was not ONE appeal from the decision of the local magistrates to the superior district court at Uitenhage. No doubt Mr. Bird thought the more aspersions he could cast upon the Settlers, the more favour he would find with his Lordship. But the effect of these base attempts can be only of short duration, and the Commissioners will soon have an opportunity of ascertaining that they are as unfounded, as they are disgraceful to the author.

. . . . We have had the rust among us this year, as extensively and as violently as in the former seasons, but as we cultivated chiefly Bengal wheat, which resists the disease better than the Colonial grain, I think we shall have enough to supply our wants until the next harvest. The blight from hot

* A very different person from Colonel Bird. This book was written to serve a purpose. The author is the Wilberforce Bird, some time membe. for Coventry.—R. S. D.

† There is not a shadow of foundation for this assertion.—R. S. D.

winds did more injury this year to the *late* crops than the rust. Notwithstanding these serious difficulties we have to contend with, we should still be satisfied with our situation if we had a Governor disposed to listen to reasonable requests, and to redress real grievances ; but from the system which has been pursued towards us, three-fourths of the Settlers have left the district, and half of those who remain would have quitted it, had not the arrival of the Commissioners delayed their departure.

Another writes to me as follows :

It was with the deepest regret throughout the district, that we heard of your departure ; my brother at the Kowie finding himself not supported by the authorities, gave up the place in disgust, and is since deceased !

Yes, my Lord, “ deceased ! ” dead ! from the effects of disappointment, anxiety, frustrated hopes, pecuniary losses, and perhaps, from the agonizing sight, as was the case with many, of his wife and children perishing of want ! All causes which have effected the deaths of hundreds of our unhappy Settlers ; deaths preceded by mental sufferings of the most horrible nature ; compared with *which*, the desperate but sudden plunge of the Kaffer knife is mercy ! Shall all this be washed in Lethe ?

This writer goes on to tell me that he has been obliged to sell off his stock in Lushington Valley, having failed, notwithstanding the most persevering industry ; and of the town which I had founded, he says :

Bathurst has been totally neglected, but if the Kowie continues to prosper, of which I have no doubt, Bathurst will prosper in proportion, even without the aid of Government.

I will here quote another correspondent, resident in Cape Town, that your Lordship may see that the same feelings and opinions pervaded every part of the Colony.

When you left us, the frontier was quiet, and allowing for the distress, the effect of two failures of harvests, as much unanimity and good will prevailed as could be expected in a community composed as ours is. It required a peculiar talent at sowing discord so soon to change the scene, but it is completely changed, a system of espionage is established, which breaks the confidence of society, and no one has the least chance of quiet who does not, as I do, seclude himself entirely.

Then follows an account of the way in which Lieutenant Rubidge, of the navy, had been oppressed and hunted, under the idea (a very mistaken one) that he had been a protégé of

mine—in fact, I had no protégés. I was there to obey your Lordship's instructions, and to administer justice in my Sovereign's name, and not to dispense favours at the public expense, thereby to surround myself with flatterers who, as soon as they had turned my head and made me forget myself, would themselves forget the favours I might have lavished on them.

The writer goes on :

This industrious and deserving man (Lieutenant Rubidge,) will be driven from Albany for no other cause than the one I have alluded to. This will give you some insight into the system, although a very slight one ; but were I to touch on the Cape corps, the extraordinary mode of recruiting the cavalry, the Grooté Post Farm, &c. &c. I could fill a pamphlet.

Another correspondent at Cape Town, after alluding to the general despondency, and the Governor's late visit to the frontier, where the poor subdued Settlers had presented to him an Address, complimentary to himself and to his son, remarks :

Is it to be supposed that Lord Bathurst, or the Commander-in-Chief, will attach any value to memorials containing such slavish adulation from the same persons who a week before had attributed all their miseries to the very persons whom they were now brought to represent as demi-gods !

But, my Lord, I think I may here drop, at least for the present, the subject of the Settlers, their sufferings, the destruction of Bathurst and Fredericksburg, the sweeping away of the line of military posts which I had established, and effectually established for the protection of the frontier, together with the abolition of the Kaffer fair, which I had arranged and regulated. All these precipitate measures, so fatal to the Settlers, have been sufficiently detailed to your Lordship in the foregoing pages, and I need not swell this letter by any farther addition from the immense mass of papers on my table, all tending to one point, namely, to show by what hand the settlement in Albany has been crushed, amidst individual suffering of the most acute and fearful sort.

I will therefore now hasten to a conclusion as fast as the subject will admit, but I must first call your Lordship's attention to the contrast between the present state of the finances of the Colony, and what they were when I came away at the end of the year 1821.

I will not trouble your Lordship with any elaborate financial

details, not only because this letter has already arrived at an inordinate length, but because I hope to have a full investigation of the Cape finance in another place, and to hear there whether or no the Treasury of England is to be called upon to support that sinking and bankrupt Colony, while he who has been enriched at its expense, and who has reduced it to its present deplorable state, has the means of refunding at least something towards the re-establishment of its finances.

The first point of finance to which I shall call your Lordship's notice is the fact that when I left the Colony *there was a surplus revenue*—not a large one, but still it was a surplus. It was created, and would have been maintained by the system of economy which I was enabled to bring into operation in the second year of my government, in which I reduced the extraordinary expenditure of the Government from 660,488 Rixdollars, which it was in the year ending in 1819, to 345,772, in the year ending in 1821. Difference—Rixdollars 314,716.

In the intermediate year of 1820 I could reduce the extraordinaries only from 660,488 Rixdollars to 569,358 ; but which still was a retrenchment of 91,130.

This was all I could do in my first year, for, besides my objection to all sweeping systems, and violent machinery in financial reforms, Lord Charles Somerset left me a debt arising out of a Kaffer war in which he had been engaged, which debt amounted to 272,738 Rixdollars, and which was charged against my extraordinaries. For this there was no remedy ; the Colonial faith was pledged, and I paid the money.

Your Lordship has seen by the foregoing that my extraordinary expenditure amounted in my last year to 345,772 Rixdollars.

I certainly should have reduced it considerably in the next year had I remained, but I will assume that in this I may have flattered myself, and I will suppose that my extraordinaries for 1822 would have been the same as for 1821, viz. 345,772 Rixdollars.

This would give for two years 691,544 Rixdollars.

Now, my Lord, I present your Lordship with the amount of Lord Charles Somerset's two years' extraordinaries for 1823 and 1824.

It was in round numbers about, or not far short of, 2,645,000 .

Rixdollars, that is, very near *four* times the amount of my two years, even with the admission that I should not have made further reductions in the expenditure, which I certainly should have done.

Since 1824 the finances have been getting worse and worse, and the expenditure has been increased, while the land revenue and the customs, the chief resources of the Colonial Fisc, have been diminishing.

Your Lordship would, perhaps, like to see some of the general items of this monstrous expenditure. As I have not had, and cannot have access to all the Colonial documents, I do not pretend to complete accuracy, but an approximation is as follows.

In the two years—

	Rixdollars.
Frontier buildings	400,000
Newlands (country-house)	400,000
Cottages and villas	100,000
Cape corps	700,000
Borrowed from the military chest of the Commissariat .	500,000
Drawn on England, by Lord Charles Somerset, on the plea of a storm	545,000
Total extras in two years	<u>2,645,000</u>
Which gives for <i>one</i> year	1,322,500
The Revenue being	<u>1,547,671</u>
Which leaves a balance of	225,171

Rixdollars for all the ordinaries of the Colony, the first item of which, and the first paid, is his Excellency's own salary of £10,000 per annum, the whole of which I hear he now draws in England, and which sum of £10,000 a-year amounts at the present exchange to more than half of the 225,171 Rixdollars left disposable after the payment of the extraordinaries.

Now, if my calculations are even near the truth, and if Lord Charles Somerset does really draw £10,000 a year here, nothing can be more striking than this last absorption, by Lord Charles Somerset's salary, of above half of all that is left in the treasury for the whole Colony. If he only receives £5000 a year, and if the other £5000 is appropriated to the payment of the Lieutenant Governor, as has been usual in the absence of a Governor, then indeed Lord Charles Somerset draws, in England, only one-

fourth of the revenue he has left to the Colony for all the ordinaries of its expenditure.

Although at the risk of being tedious, I cannot refrain from submitting to your Lordship my humble view of what ought or might reasonably have been the expenditure at which I have been looking.

For the cottages, villas, &c. I would write	Rixdollars. <i>Nil.</i>
And I do not think that your Lordship's sanction for this expenditure can be produced ; indeed, your Lordship will see, in the answer made by Colonel Bird to his Majesty's Commissioners, in their 26th query, dated April 21st, 1825, that he told them that Lord Charles Somerset had announced his pleasure that the expenses of the most considerable of them should be " <i>blended</i> " with the general accounts of the Government House : but I write " <i>Nil</i> ," because these cottages and villas were unnecessary, and, in the then state of the Colonial Finances, most unjustifiable.	
Instead of 700,000 Rixdollars for the Cape corps, I think that if that corps were properly modified, it would not have cost above 300,000 Rixdollars in the period. This would be a saving of	400,000
The utmost required for the frontier buildings, when I came away, was 100,000 Rixdollars, which, deducted from 400,000 expended, would give a saving of	300,000
Newlands I would reduce from 400,000, particularly after the large sums already laid out on it, to 100,000 Rixdollars, which would give a saving of	300,000
Drawn on England, one account I have says, 585,000 Rixdollars ; another says, 545,000 Rixdollars ; (the sterling sum is £45,000) on the plea of a storm. I will assume the smaller sum ; but I must take it <i>all</i> as a saving ; for it may be proved that if the Colonial finance had been managed with only tolerable economy, they would have met all the disasters arising out of the storm, which might have been remedied by about £5000 sterling	545,000
The debt to the military chest I must reject, for—first, I have no sort of information as to what it is for ; and secondly, I cannot conceive a <i>Military</i> Commissary advancing money out of the Treasury of England (that is, doing that which Parliament itself does reluctantly) to a <i>Colonial</i> Government	500,000
Two years' total saving which ought to have been made	2,045,000

There are other items of extraordinaries which have not come to my knowledge, and they are comparatively small, but still they help to bear down the exhausted Colony.

When I received this statement, I naturally looked round for the ways and means to meet this formidable expenditure, but the Colony is already taxed to its utmost. The only item which presented itself to my mind was one of 45,000 Rixdollars, drawn many years ago by Lord Charles Somerset on account of his salary, on his first appointment, and which he drew, on arrival, from the date of his *appointment*, instead of from the day of his *landing*, according to the regulations of your Lordship's Department, and of the Treasury.

I am aware that your Lordship has more than once ordered this money to be paid back into the Colonial Treasury; but although it was drawn so long ago as 1814, I have good reason for believing that in January, 1824, Your Lordships instructions on this point had not been complied with, and perhaps have not to this day.* Indeed Colonel Bird called the attention of the Commissioners to this point, and uses the terms "exhausted and bankrupt state of the Colonial Treasury."

I shall now take the liberty of submitting some documents to your Lordship, which will confirm my general statement of great mismanagement of the revenue of the Colony.

The first is an extract from a statement by the Inspector of Lands and Woods to his Majesty's Commissioners of Inquiry, which, although long, I will venture to insert, as it singularly corroborates my preceding observations in many points. It is as follows :—

In the several papers the Inspector has thought it necessary to submit to the Commission, he has endeavoured to be clear and explicit, and particular in stating *facts* only, without drawing any inferences of his own, or expressing

* I have inserted an item above, "Borrowed of the Commissary, Rixdollars 500,000." I cannot help dwelling on the extraordinary fact of a Civil Governor borrowing a sum of money from a *Military* Commissary for *Colonial* purposes; and which money that Commissary can have had only by drawing bills on England, *on account of the army*. I have little hesitation in pronouncing that this 500,000 Rixdollars will be a total loss to the public. The colony, *of itself*, never can repay it; and it would be too preposterous to send money out from our Treasury here, to enable the Colony to discharge a debt due to that same Treasury. We shall lose the money on this side of the water.

himself in a manner susceptible of doubtful interpretation ; and he has most scrupulously avoided any unworthy insinuations. For each fact so stated, he has produced the authority on which it rests, in order that each question should stand on its own ground, and be distinctively viewed.

In the letter, however, addressed to the gentlemen of the Commission, and placed at the head of the *second* part of these papers, there are *allusions* made which, consistent with the above principle, might be considered as too general and undefined ; the Inspector wishes therefore still to present the following in explanation.

In the letter alluded to is noticed “ the enormous expenses incurred in buildings in every direction—in *Town*—at *Newlands*—at *Wynberg*—at *Simons Town*—and in *other parts of the country*—far beyond what *necessity*, allowing to it the utmost latitude, could possibly demand.”

The buildings here meant are the following :—“ *IN TOWN.*”—The aide-de-camp’s quarters, detached from the Government House at the end of the gardens ; these, for the use so intended, could have required only slight and ordinary repairs, but they have, at a very heavy expense, been changed into a most tasteful and elegantly finished COTTAGE ORNE, consequently no longer suited for their original destination, so that any future Governor will, in addition to the expense now incurred, have to substitute other quarters for his aides-de-camp whenever he resides in town,—query then, What public object is attained by this heavy expense ?

“ *NEWLANDS,*”—The buildings here are various and endless, not merely the house, in which prodigious waste has been incurred, through the mismanagement and ignorance of those employed both in the design and in the execution, but such a variety of out-buildings are scattered about that it has assumed the appearance of a little village. The expenses incurred here have never ceased since His Excellency’s first arrival in the Colony, the amount of which, if ever separated from the various other matters with which it is blended in general terms and charges, must present a fearful total ;* yet at

* I can present that total up to 1819.

<i>Years.</i>	<i>Newlands.</i>			<i>Government House in Town.</i>		
1814	18,939	6	0	19,639	7	3
1815	66,495	3	4	16,288	7	1
1816	22,380	7	3	8,303	5	2
1817	12,508	3	1	6,620	2	1
1818	21,310	3	0	33,203	2	0
1819	43,016	5	3	14,904	1	0
Total Rixdollars	184,651	4	5	98,960	1	1

Total of the two . 283,611 6 0 Rixdollars.

Now the whole annual revenue of the Colony for these six years was about £127,000 per annum ; and the above total of Rixdollars taken at the *then* rate of exchange makes £36,000 sterling : giving £6,000 per annum, or about a *twenty-first* part of the whole revenue for the *incidental repairs* of a Governor’s residence.—R. S. D.

this moment the house is still so far from being complete that, from the badness of the plan and of the construction, it is not even secure against the ordinary winter rains.

“AT WYNBERG.”—One of the military quarters belonging to the camp, and till lately occupied by the late Colonel Dennis, of the barrack department, has undergone similar expensive improvements as observed with respect to the aide-de-camp’s quarters in town; while a second building of the same description is also in progress, if not already finished in a corresponding manner.

“AT SIMONS TOWN.”—The improvements made to the Commandant’s and to the Resident’s houses. Of these the particulars are not precisely known, but for the purpose of those buildings the expenses are also considered to have been unnecessarily great;* and Captain Somerset, who is both Commandant and Resident, could at all events have had occasion for one of the houses only.

“IN OTHER PARTS OF THE COUNTRY.”—By these are meant that by changing the seat of magistracy in the district of *Albany* from Bathurst to Graham’s Town, at which former place it had been fixed by Sir Rufane Donkin, the expense that had been incurred for the public buildings, with which considerable progress had been made, is completely lost not only, but must be completed at Graham’s Town.

At TULBAGH the Landdrost’s house had greatly suffered from the extraordinary severity of the last winter, but by no means proportionably to the various other public buildings of this old established seat; therefore the greater expense would have been confined to the repairs of those damages, which undoubtedly would have been heavy, but not to be compared to those necessary to be incurred by removing the seat of that magistracy from Tulbagh to Worcester, *where the WHOLE is to be new built.*

The Inspector does not presume to judge of the expediency of these removals, but surely in the present state of the Colonial resources, the incurring of such expenses, if not absolutely and indispensably required to be *immediately incurred*, would have been more consonant with His Excellency’s professed regard for public economy, had they been at least postponed.

In one of the annexures to the letter before alluded to, viz., the explanation accompanying the observations on the Groote Post, it has been said, that “in a late transaction His Excellency has been pleased to transfer a horse, two bulls, &c., at very high prices indeed, from these Government Farms at the Groote Post to another Government Farm in the interior, (Somerset Farm), to make room and pay for a new horse sold by His Excellency to the former, although the latter is not a Breeding Farm, but has been used for a specific purpose for a Commissariat Farm.” And that “it is clear, that were this to become a practice, it would create that which would render the breaking up of the Groote Post establishment the more desirable.”

In a marginal note was added—“the transfer of that horse, &c., was attended with circumstances of a peculiar nature, which I prefer to submit for inquiry to the Commission to stating it here.”

* “Probably from first to last not less, if so little, as 25,000 Rixdollars!”

The horse alluded to (Orval) was imported by Messrs. Hamilton, Ross, and Co., about 1817. The exact time is not known, but the average exchange throughout that year was 123 per cent. Either during that same year, or early in the year following, the said horse was sold by *public vendue* for 2,700 Rixdollars, which, taking the exchange at 123 per cent, the sterling value of the horse at that time was equal to £242 3s.* After this period, or in fact, after the settling of the *importers'* private account in England, to which alone the consideration of the sterling value, and the exchange upon it applies, this horse, in all its subsequent mutations *in the Colony*, by sale, exchange, &c., had its value rated in currency, or in Colonial value, without reference to any sterling price.†

This horse, after having been for a short period in the possession of the purchaser, who paid for it *in currency*, at the vendue, *without reference to the exchange*, became the property of his Excellency, who gave for it a *Colonial-bred mare*, (the "Maid of Swellendam,") and His Excellency subsequently transferred this same horse again to the Groote Post Farm, for what consideration does not appear, and there it remained about four years *to cover*: when, in March, 1822, it was sent to another distant Government Farm (Somerset Farm) in the Albany district, and an order was given to the agent for both farms to "transfer in Rixdollars from the funds of the Somerset Farm, to those of the Groote Post, FOUR HUNDRED POUNDS STERLING for the English stallion, then on his journey to Graham's Town, *ascertaining the rate of the Exchange* from the Colonial Paymaster."

This order was dated Newlands, 29th March, 1822, and the rate of the exchange was then 177 per cent and a fraction, which produced the currency account of 5550 Rixdollars!

It naturally occurs to ask, what could the exchange of 1822 have to do with the price of a horse imported in 1817, after having in that interval been sold and swapped different times? Why should the price now be stated in sterling, while it had first been sold for *currency*, and then exchanged for a *Colonial-bred mare*? Why revert to *sterling* money, and put, after a lapse of years, a greater sterling value upon it, when age and services had, on the contrary, reduced its value, than what it was originally worth at the rate of 123 per cent exchange? And why, at that advanced sterling value again charge the advanced exchange of 177 per cent, making also a difference of 54 per cent upon this latter, and then compel one government farm to pay to another the amount of 5550 Rixdollars for a deteriorated article, which, about five years preceding, could, with *all the advantages of a public competition*, produce

* "The average exchange of 1818 was 128 per cent, thence only five per cent difference, if the sale took place in that year."

† I must here express my great regret at introducing anything into these pages about horse-dealing, a subject on which I am profoundly ignorant; but the transactions detailed by Mr. D'Escury are so intimately blended with the question of Colonial finance, that I cannot disconnect the two, nor show the misapplication of the public money, without introducing the dealings detailed in this paper, which gave rise to that misapplication.—R. S. D.

only 2700 Rixdollars ? After which, apply this hard-wrung sum for the payment of *another* horse, again furnished by *His Excellency* to the same Groote Post !

This surely would, in the ordinary way of dealing, not be deemed regular ; but His Excellency, in these transactions, besides being both buyer and seller, compels, by virtue of his authority, both sale and purchase, and that at prices, in both instances also, determined by *himself*, having *himself* an interest in the proceeds ; for he furnishes the article, *while the capital engaged belongs to the public*, whose resources are at his command ! The case stands thus :

His Excellency furnished to the Groote Post Farm, *under his own immediate administration*, in the first instance, the stallion *Orval*, procured by His Excellency in the Colony *for himself*, as before shewn ; next also, His Excellency furnished to the said Groote Post Farm the stallion *Vanguard*, *imported by himself*, and now on the Farm ; hence both these horses were His Excellency's own immediate property, on which he of course *fixed*, but did not as to the latter horse, *declare* to the agent his own price.* He orders at the same time, evidently to minister towards the payment of it, (for the Groote Post had no funds to meet so heavy a purchase,) the Somerset Farm to buy from the former the stallion *Orval*, which the latter farm *did not want*,† but which the Groote Post was to get rid of, in order to make room for *His Excellency's own*, which he wished to substitute in its stead ; and His Excellency orders the exorbitant price of 5550 Rixdollars, also fixed by himself, to be paid for it by the Somerset Farm ;‡ after which His Excellency orders again the Groote Post to pay to himself§ the money it had so received !

The bulls alluded to are two old Devonshire bulls, superannuated as to the purposes bulls are kept for ; || these the Somerset Farm was made to pay for at the rate of 600 Rixdollars each, while the best young bulls bred at the Groote Post, which *ought* to be the best in the Colony, are sold on an average

* “ The agent does not even now know what is ultimately the total to be paid for it.”

† “ The Somerset Farm is not a Breeding Farm, as has been stated before, but if the horse should be represented as having been sent there with a view *to accommodate the public*, to cover the mares of the farmers in that district, why put a *selling price upon it* ? why not send the horse on the *part of the Groote Post*, and put it under the care of the manager of the Somerset Farm, *both* being Government Farms, and the object of public benefit being common to both ? But, after all, did this said horse *Orval* ever reach the Somerset Farm, or did it remain at Graham's Town ? If the latter should prove to be the case, which there is strong reason for believing, why was the Somerset Farm made to pay for it at all ? ”

‡ “ See the order above quoted, which is the Agent's voucher for the transaction.”

§ “ See Groote Post account of April, 1822 ; and see also receipt in the hands of the Agent.”

|| “ Imported full seven years ago ; they must be nine or ten years old.”

at 100 Rixdollars !* The Somerset Farm not being a Breeding Farm, and had these Devonshire bulls been in their prime, and worth the money charged for them, they would still not be wanted there ; yet this farm nevertheless paid 1200 Rixdollars to the Groote Post for these useless creatures, and which, after all, never reached their destination ; the one broke his leg on being shipped, or unshipped, and the other died soon after landing.

Beside these, *one* cow was at the same time disposed of in like manner by the *Groote Post to the Somerset Farm*, for the sum of 300 Rixdollars ! If this cow has arrived† it is very lately only, though it was at the same time with the bulls paid for, so long ago as the 4th March, 1822 ; consequently then the said Somerset Farm has been made to pay within one year to the Groote Post Farm 7050 Rixdollars for stock it did not want, which in reality was deteriorated, and little better than cast-off stock of the latter, and seemingly for no other purpose than to furnish funds at the disposal of the Groote Post.

But there is still another instance of supplying the Groote Post with funds, at the public expense, necessary to be pointed out. A team of mules appears on the Groote Post accounts to have been sold *to Government* early in 1822, for a sum of 1300 Rixdollars,‡ although in this instance, as in that of the Account for the keep of colts, mules, &c.§ also paid for from the Treasury

* “ In the Account of December, 1820, appears the following item :—

“ ‘ From T. Buckle, for a *Devonshire* bull, 70 Rixdollars.’

“ If this be the progeny of either of these old bulls, how wofully must the son have degenerated from the sire, who in his old age is still deemed worth 600 Rixdollars ! or otherwise, it bespeaks the estimation that breed is held in here, to fall considerably short of His Excellency’s opinion of it, in charging 1200 Rixdollars for the two bulls to the Somerset Farm.”

† “ This Cow is still at NEWLANDS, 26th June, 1823, though paid for March, 1822.”

‡ “ Those several transactions stand thus : in December, 1821, there was a balance due to the Agent of Rixdollars 1562 7 2 ; in January, 1822, the balance due to the Agent was Rixdollars 1617 3 4, without any immediate prospect of a proportionable receipt. On the 1st of February, the Treasury paid on Government Account, Rixdollars 1300, for the team of mules on His Excellency’s warrant, with which, Rixdollars 1300, together with some small sales of wheat, the debt to the Agent was paid off, and a balance of Rixdollars 125 5 2 remained in hand ; this however, not being sufficient to meet the expenditure of the following month, the two bulls and cow were ordered to be purchased by the Somerset Farm for the extraordinary price of Rixdollars 1500 ; this supply, and the sale of wool in April following buoyed up the accounts again, when in this month (April) there also took place the transaction of the horse *Orval*. On the 3rd April, the Somerset Farm paid to the Groote Post, Rixdollars 5550, which sum the said Groote Post paid again to His Excellency on the 30th of the same month, in part payment, for His Excellency’s Horse, *Vanguard*, now at the Groote Post.”

§ “ See the Account added to the observations on the Groote Post, in the additional illustration.”

to the same Government Farm,—it may be asked, how is it that the public must pay to an Establishment *of its own*, either for the occasional keep of a few heads of stock or for the use of a team of mules, &c. ? If such a team were wanted for the public service, and at the time not immediately required on the farm, why not order them up, employ them for such service, and when done with, then send them back ? If then after that work they are no longer wanted, either for the farm or any other public service, then sell them in the usual manner by public vendue ; by this means there would be no occasion for the public to purchase *its own property* ; * the public work these mules were employed for, would be done without feeling the expense, and when finished, the mules being sold, would *bring in* money paid by individuals, instead of its being *taken out* of the Treasury.

The result of the foregoing then is, that the Government Establishment of the Groote Post has received within one year, whether paid from the Treasury or from one Public Establishment to another, the following sums :

From the Treasury, for the amount of an Account	Rixdollars.
delivered	533
From the Somerset Farm, for stock transferred to it	7050
From the Treasury, for a team of Mules	1300

	Rixdollars 8883

Yet of this sum, the only utility the public have derived from it, is the work the mules may have performed, which, if the above observations be correct, ought to have been done *for nothing*, save the forage required, and which must now equally be paid for.

The prodigious stretch of power which in these instances directed the issue of *public* money, for such (independent of what was paid from the Treasury) the funds of these *public* Establishments must undoubtedly be considered, thus nearly connected with objects of private speculation, and without any public advantage whatsoever being derived from it ; so ill according with the motives of *public economy* assumed by His Excellency on another occasion, seemed to call for, and to warrant the contrast hereby intended to be marked ; while the present administration of these Farms, shewn to differ so widely from the ends originally proposed by their establishment, it is presumed, will

* “It seems to be lost sight of, that the Establishment occupies an immense extent of land belonging to the public, *for which no rent is paid* ; that the public have staked Rixdollars 73,429 of capital in the formation of that Establishment, *for which no interest is paid* ; that the very land was afterwards mortgaged on the part of the public to the Orphan Chamber for an additional debt, that Establishment had contracted, of Rixdollars 2800, and a farther made to it in October, 1820, of Rixdollars 3012. With such claims on the part of the public, surely they ought not to be rated, much less exorbitantly rated, for any occasional trifling use they derive from an Establishment so expensive, so useless, and so wasteful, as that of the Groote Post.”

also be deemed strong additional ground to warrant the suggestion of breaking up these Establishments, and for applying the lands thus unprofitably locked up to purposes of more general utility, by distributing them, either on leases corresponding with those of the other Government Farms of the Groenekloof, or on Perpetual Quitrents, amongst such persons as might be willing to occupy them on those terms.

The several details these papers contain, the Inspector has felt most unpleasant to himself to enter into ; but he felt also strongly the necessity of supporting his Statements by the most striking facts that lie in the direct line of his own public department. He felt that the higher the authority opposed to him, the more irrefutable must be his Statements ; the stronger, and more incontrovertible his proofs to support them. He was aware of the prevailing idea that a Governor must be supported *at all events* ; and although his own conviction did not go the full length of what this idea implies, he could not conceal from himself the disadvantages of his relative situation, and thence, in these particulars he has *not* acted from choice, but yielded to the necessity circumstances imposed on him.

(Signed) CHARLES D'ESCURY,
Inspector of Government Lands and Woods.

I perhaps, my Lord, have said enough on Cape Finance, to justify my pronouncing that Colony to be in a state of bankruptcy ; or if it be not yet actually in that state, its bankruptcy can be averted only by aid from England. I think too, that I have shown by the short statement I have made of my own financial arrangements when I was at the Cape, that had my system of economy been persevered in, and which pressed upon nobody, the finances of the Colony would have been at this moment unembarrassed.

On these two points I think I may venture to appeal to Colonel Bird, the former Secretary ; to Sir Richard Plaskett, the present Secretary ; to my honest and incorruptible friend, J. W. Stoll, Landdrost of the Cape District, and the present Receiver General of Revenue ; to my truly honourable and excellent friend General Bourke, the present Lieutenant Governor, who is endeavouring, I hear, by every means in his power, by economy and good management, to carry on the financial operations of the Government ; and lastly, I think I may venture to appeal to the Report of the Commissioners, who cannot have been silent on this very important matter, nor have failed to have drawn a comparison between Lord Charles Somerset's financial operations and mine, particularly after the actual state of the Colonial Fisc had been pressed

upon their attention by so many circumstances, some of which I shall now notice.

The first paper I put my hands upon, contains a variety of questions from the Commissioners to Colonel Bird, late Secretary to the Colony. One of these questions is on the point, "whether or no the Secretary of the Colony felt himself called upon, or bound, to enter his protest against any improper act or expenditure of the Governor ? " The answer is as follows :

(Extract.) But it would be his (the Secretary's) duty to enter his protest whenever he saw gross deception attempted to be practised on the Secretary of State, such as procured Earl Bathurst's assent to the last augmentation of the Cape corps ; and procured also the Majority of it for the then Captain Somerset ; the circumstances of which Colonel Bird will here detail, in explanation of his view of the nature of protests.

The Cape corps at its formation in 1819, consisted of two troops of cavalry, and four companies of infantry, under one field officer ; part of the infantry had also the means of being mounted when celerity was required, some horses of the 21st Dragoons having been retained for that purpose. In the opinion of many competent judges, the infantry was then stronger than the state of the frontier required : the cavalry fully adequate to any probable exigency, the border never having been more quiet than it had been since the last pacification with the Kaffers.

Suddenly a rumour was spread in Cape Town, of a combination of the Kaffers against the Colony. This was eagerly seized upon as the ground for recommending an augmentation of the Cape corps, and of an additional Major, by which the main object would be obtained ; a most deceptive despatch was therefore prepared, in which the supposed combination was described in glowing colours, and an equally fallacious mode was adopted for meeting the increased expenditure.*

This despatch was forwarded by the *Heron* brig of war, when, singular to say, at the very moment of making up the despatch, a letter was lying on the Governor's table† from the Commandant on the frontier, Colonel Scott, stating that he could not learn that any combination of the Kaffer chiefs was in agitation ; that he had never known them in a state of more perfect quiet ; that he had consulted Mr. Thomson, our Agent with the Kaffer tribes, who resided on the river Chumie, and that his answer, which he (Colonel Scott) transmitted, must set the question quite at rest, as Mr. Thomson assured him, that if such a report existed, it was as ridiculous as untrue ; that the only movement amongst the Kaffers which had come to his knowledge was, that one of the Kaffer chiefs had applied to him (Mr. Thomson) to get the

* In this way have Cape affairs been got up, finance and all, to produce a stage effect on the eyes of a Secretary of State.—R. S. D.

† This letter and its inclosure from Mr. Thompson are now on *my* table. They were sent to me from the frontier.—R. S. D.

lock of his gun mended. Yet, with these positive documents on the table, was the fallacious despatch sent to Lord Bathurst, who credited what was so solemnly reported,* and approved an augmentation which was unnecessary, and which has been most ruinously expensive to the Colony ; for the money which was raised by the sale of Commissions, and which was to have been placed at interest for the payment, in part, of the increased expense, was absorbed by the exigencies of the Colonial expenditure.

Subsequent to the despatch having been so forwarded to Lord Bathurst, Colonel Scott recommended the augmentation, having been *required* to do so ; and the draft of the letter which he was *required* to write, *was forwarded to him from Cape Town !* A very few months after which, this same Colonel Scott reported that the tranquillity of the frontier was so great, that he could spare a large proportion of the force under his command for the service of Cape Town !

Against measures of this sort, a Colonial Secretary (Secretary to the Colony) having the power, would naturally protest. He would have used that privilege too, when Lord Bathurst was told that the house at Newlands fell in consequence of the severity of the weather, when it was notorious that Newlands House fell in consequence of having a ponderous second story added to it, when the walls and the foundation gave way, &c. &c.

This is followed by some strong observations on what Newlands cost ; but as your Lordship has the Report of the Commissioners on that most expensive villa, I shall simply say, that I believe, if ever it should be possible to disentangle the accounts of that building, it will be found that it has not cost less than £45,000 sterling, although your Lordship was induced to consent to the rebuilding, on an *apparent* contract for only £7000 ; but no correct account can ever be made of what has been going on there ; for such have been the means pursued, so tortuous and involved are the accounts, that the most acute accountant will be baffled in any attempt to disentangle them and get at the real cost of Newlands.

First comes the contract, with the moderate sum of about £7000. Then the bricks were to be made on the spot, at nominally no expense, although in reality at a very heavy one. Then soldiers were at work *on fatigue*, as the military phrase is, some of whom were paid out of the extraordinaries of the army—others not paid at all, to their great dissatisfaction. Next were men, artificers, attached to the Barrack Department, paid also out of the extraordinaries of the army, but

* How could his Lordship do otherwise ? can any blame attach to a Secretary of State, for not seeing what is going on 7000 miles off, when such means are resorted to for blindfolding him ?—R. S. D.

whose labour was lost of course to that army while employed on a Colonial building at Newlands ; and one of the first things I was obliged to do on my assuming the command of the forces, was to order the barrack artificers away from Newlands, to repair the window-shutters of the soldiers' barracks, which at the stormy Cape were frequently damaged ; and which at that very moment were, and had been for some time, in such a state, that many of the soldiers every night got wet in their beds for want of their barracks being weather-tight. Next came certain weekly disbursements made by the Barrack Department, and charged on the military chest, on the plea, I suppose, that Newlands was a *barrack* ; because the Commander of the Forces, who is also Civil Governor, lived there. Then came separate charges for iron, labour, carriage, and a labyrinth of water-pipes—Mr. Klerck (a Government servant,) up to a given period, which I do not now recollect, had already delivered 80,000 half-aams of lime at Newlands, which was made by Government slaves, at Government kilns ; which lime, had it been *sold*, would have brought into the Colonial Treasury two-and-a-half Rixdollars the half-aam, that is to say, in all, 200,000 Rixdollars ; which sum, as it has not gone into the Treasury, may fairly be said to have come out of it ; or, at all events, to have been *kept* out of it.

Neither out-buildings nor stabling were included in the contract of £7000 submitted to your Lordship, consequently they are extras ; in short, I now lose myself in the attempt to recollect or to detail intelligibly the maze of machinery brought into play, as I did at the time when I wished to check these accounts, for I was obliged to grant monthly warrants for the payment of these multifarious items ; as, during two years, the payment of part of this profuse expenditure was imposed upon me by a contract and regulations which I found established, and which were handed over to me by Lord Charles Somerset, who told me the very day before he embarked, that he hoped I would not allow Colonel Bird to thwart the progress of this building, for that your Lordship had approved of it. Thus fettered, I was obliged to grant my warrants, but, aware of the responsibility, and expecting that a day of reckoning must come, I guarded all my first warrants with a note in my own hand writing at the corner of each, “ that I had signed it in

pursuance of an agreement made by Lord Charles Somerset with the contractor before his departure."

The late Secretary to the Colony goes on to give his Majesty's Commissioners further information as to the finances of the Colony as follows :

Query, No. 26, from the Commisioners, April 21, 1825.

Has it been customary to make advances from the Colonial Treasury *on account*, during the progress of public works, and before the accounts could be made up and audited ?

Answer. The pernicious and illegal practice alluded to in this question, has crept in within these few years. I cannot state when it first began, but I believe it was with the confidential employment of W. Oliver Jones. This man has had large advances made to him to *carry on* works which he, *as Inspector*, ought merely to have superintended and checked. This great irregularity was the subject of much uneasiness to me, and I frequently represented to the Receiver General, the danger he was personally exposed to in complying with the Governor's *verbal* orders, by advancing these large sums to W. Oliver Jones, it being contrary to the Receiver General's instructions to issue monies unless upon regular warrants, signed by the Governor, and countersigned by the Secretary ; and it being contrary to the Governor's instructions to draw from the Treasury as above described.

The Receiver General was certainly perplexed, but he appears to have preferred the *risque* to the *certainty* of ruin, had he refused to comply with the unjust and illegal requisition.* The advances at last amounted to the large sum of 95,000 Rixdollars. I then spoke to the Governor on the subject, seeing the ruin suspended over the Receiver General, and I obtained a temporary warrant to cover the issues which had been made. This was one of the last things in which I officially acted.

In order to explain the pernicious effects of this system, I shall bring to your notice *two* circumstances. The first relates to the expenditure on the Government Cottage in Graave-street. This building ought to have been commenced and carried on† upon a plan and estimate sanctioned by the Secretary of State ; it was neither estimated, nor approved ! but it was carried on by Mr. W. Oliver Jones by means of advances.

When the work had proceeded very far, seeing that it was very expensive, and likely to be more so, I suggested calling on W. Oliver Jones for the Accounts, which suggestion having been approved, I required him to furnish them to my office ; he however delayed doing so, and having met him, I urged him to make them out, which circumstance he must have repeated to the Governor, as, at my next interview with his Lordship, he spoke of it with great irritation, and then said that he would have that outlay ~~blended with the~~

* Under such a system and such a tenure as ~~writes~~ ^{writes} of all the Functionaries at the Cape held their offices for a series of years ~~and~~ what must be the moral state of the Colony ?—R. S. D.

† If at all ! See Mr. D'Escury's opinion on this subject.—R. S. D.

general account of the repairs of the Government House, and that my calling for these accounts was only to bring censure on him.

Thus, contrary to all regulation, *no* entry of this large item of expenditure appeared in the accounts when I left the office.

Nor was any entry made of the expenditure at the marine villa at Camp's Bay, which is the *second* case I alluded to. That building was likewise erected by Mr. W. Oliver Jones, by *advances* from the Treasury for its execution ; thus will it ever be found impossible to have correct accounts of these heads of expenditure. Vouchers may be *composed* to answer the Treasury forms ; but it would be absurd to consider such as meeting the very precise instructions of his Majesty's government. Should the Commissioners choose to compare this statement with these instructions, and with the oath taken yearly by the Governor, it will be unnecessary to comment farther on it."

I have still, my Lord, a considerable mass of papers before me, detailing facts as strange as those I have submitted to you in this letter ; but I am wearied by having fixed my attention on such a scene, almost exclusively, for the last three days ; and I can suppose that your Lordship must be wearied too. I shall therefore pass over, for the present, whatever else I may have (and I have a great deal) bearing on this question ; and I am induced to do so from the persuasion I am under, that what I have adduced will be sufficient to convince your Lordship, that the *first* and *favourable* opinion you were pleased to form of me, was the right one. Before I conclude, I must entreat your Lordship to do me the justice to recollect, that this exposition of Cape Affairs was not sought by me ; and that your Lordship cannot tax me with impatience or precipitancy. During five years I have remained passive, or nearly so ; and I have left Lord Charles Somerset in possession of your Lordship's Ear ; but when I found, at last, the doors of your Lordship's Office shut against me ; when I adverted to the tone, as well as the inquisition of the correspondence, under which I have been kept for five years, but which I am far from attributing to your Lordship—for, when statements were made to you from an official quarter, you were bound to call for explanations—when I reflect that I have not received the smallest mark of personal consideration or notice from your Lordship, since my return from holding a government under your orders ; that I have been treated, as it were, as a proscribed person at your Office ; that neither when the Commissioners were going out to the Cape, nor when Mr. D'Escury

sent his papers to your Lordship, and referred you to me; nor when the changes in the form of the Government at the Cape were in contemplation; nor when the general question of emigration was started last year; nor when, in fact, any one subject was under consideration, on which it might be presumed I must have some practical knowledge, have I ever been, I will not say consulted, but, have I ever been communicated with, or even had a single reference made to me, from your Department, for an opinion. When I reflect on all this, I feel confident that nobody will either tax me with impatient precipitancy, nor wonder, that *at last*, I have been roused to my own justification.

My Lord, although no power—no offers—no temptations, will ever induce me to sacrifice one iota of that independence or that character which I am bound, as a gentleman, and as a man of honour, to maintain, I will confess here, that a very small portion of attention from your Lordship, *would* have prevented the *publication* of this letter; for any personal attention from your Lordship would have rendered its publication unnecessary, by indicating your continued good opinion of me, for no public duty called on me, in particular, to step forward on this occasion; and any attention, even the smallest, from your Lordship, would have satisfied me and my friends, that I stood where I ought to do with you. *But, I was to be put down! and for whom?*

Your Lordship not having thought the smallest sacrifice to my feelings expedient, I have taken this mode of redressing *myself*. But this is a defensive act on my part, and not one of offence.

I have mentioned, in one part of this letter, a beloved child, as almost all that the hand of death had left to me of every thing that was most dear to me on earth.

To that child I bequeath this letter, as the rule and guide of his conduct. It will teach him, first, the necessity of being honest to others: and next, to be true to himself.

I have been told by some of my well-meaning but cautious friends, that it was “imprudent” in me to publish this letter, for that it would give offence to persons in power.

My Lord, if by “persons in power” they meant any of the Members of his Majesty’s Government, I tell my friends, that

I have too high an opinion of all those distinguished persons, to allow myself to think, that when a gentleman and soldier finds it necessary to come forward and do himself justice, he can thereby give offence to anyone ; nor will I believe, that to offer truth to the eyes of any one Minister of the present Government will be construed into a want of due respect on my part.

But, my Lord, if even the frown of power *had* been instant on me, still I *would* have done what I now *have* done. I had a duty to perform to myself and to my child ; and feeling this, I have not stopped to put my case into the cautious, trembling scale of worldly Prudence.

I shall here beg leave, my Lord, to make one concluding observation.

I disclaim, in the strongest manner, any thing like animadversion on your Lordship in any way. Anybody who will take the trouble to look over the preceding pages dispassionately, will not only give me credit for patience, but will see that I have been absolutely goaded into the necessity of setting myself right—not by your Lordship—but by him who can set himself *right* only by making you think me *wrong* : and as to his Majesty's Government at large, I view this question as one entirely Departmental, and as not bearing, in the remotest degree, on the Administration in general ; my respect for, and confidence in which, shall be abundantly proved, should I succeed in getting into Parliament, either by petition or otherwise. I have &c.

(Signed) R. S. DONKIN.

Appendix.

There is a variety of minor circumstances and of miscellaneous matter which could not with propriety be introduced into a letter addressed to one of the highest Officers of State.

These I have thrown here into an Appendix, and they will not be without their use as illustrations to those persons who are not well acquainted with Cape of Good Hope politics, nor with the manner in which the orders of the King are observed, and the interests of his subjects watched over in Southern Africa.

They still form, however, but a very small part of an immense accumulation of facts and statements which were sent to me from the Cape, voluntarily, and without any application from me, as soon as it was known that I had offered myself as a candidate for Parliament, and which will now probably see the light—unless indeed this Pamphlet should be stamped by the Public with the

“Ohe ! jam satis est.”

The first paper which I shall introduce into this Appendix is my report to Lord Bathurst, when I was relieved by Lord Charles Somerset at the Cape of Good Hope. By publishing this report I betray no trust—I break no confidence—it is a paper wholly *personal* to myself, and on personal matters. I have, in the preceding letter, admitted the principle that a public servant has *no right* to make use of the correspondence which he may have held with a Minister of the Crown *while in office*, and to give it to the world in support of any statement he may think proper to publish ; and I here distinctly request it may be observed, that I have not, either in the preceding Letter, or in this Appendix, published a single line of my *official* correspondence or instructions during the *period of my administration*. It is true, I have published some of the *official* correspondence, &c., of the Commissioners ; but all this took place *since* my departure, and I am as much at liberty to produce it* as any other indifferent person ; so with some other papers, Mr. D’Escury’s for instance, the *whole* of which he sent to me (weighing probably 20lbs.) ; and in a letter accompanying them he earnestly requested me to see Lord Bathurst, (supposing as a matter of course that I must at least be in occasional communication with his Lordship,) and to bear testimony as to his character and his conduct while under my orders, at the same time telling me that he *had referred his Lordship to me* for full information as to his papers and himself, so that there was nothing clandestine on the part of Mr. D’Escury in this transaction.

With this explanation I now give my report to Lord Bathurst.

* I have a large pile of it.

A.

See letter from Sir Rufane Donkin to Earl Bathurst, of 1st December 1821, Volume XIV, page 180.

When it is recollected that this Report of mine to Lord Bathurst was written the same day that the strange conduct described in it took place, I shall not be accused of want of moderation or of loss of temper on the occasion, and the scene which I have described will abundantly show the feelings with which Lord Charles Somerset was animated towards me when he landed. Those who have more curiosity than I have (for I never took the trouble to make any inquiries on the subject,) may, perhaps, be disposed to ask, what could have put Lord Charles Somerset so out of humour at a moment when, externally at least, courtesy, as well as attention to public duties, was called for? I will tell those who may have this curiosity all I know on the subject.

I have been informed, that either Lord Charles Somerset, or some of those sycophants who are always ready to swarm about the seat of power, if encouraged to do so, had declared that “my two years’ administration had been throughout a practical satire on all the preceding years of Lord Charles Somerset’s.”

If any of the Government House minions *did* tell him so, I conclude he immediately kicked them out of that house—for what satire could be more severe than to tell a man that the administration of his immediate predecessor, which had called forth the repeated approbation of the Secretary of State, and the united applause of all the Colonists, old and new, chiefly on account of the honesty and fair-dealing of that administration, was a “practical satire” on all *his* former conduct!

If Lord Charles Somerset made this remark himself, (which I can hardly believe possible,) he was committing a sort of *felo-de-se* on his own reputation.

I, indeed, some time after I landed in England, was informed of *another* reason—namely—that Lord Charles Somerset had strongly expressed his hostility towards me, *because* I had shaken a horsewhip over his son, Captain Somerset, when I was reprimanding him for a breach of military discipline!!!

I am surprised that before Lord Charles Somerset made such

an assertion, he did not see the predicament in which it would place his son, then a Captain and now a Lieutenant-Colonel in the army ! Why, if I *had* done so, Captain Somerset ought, the very moment I quitted the Colony, and was out of office, to have followed me to the remotest corners of the earth, if necessary, until he had demanded and obtained personal satisfaction for so cowardly and atrocious an outrage !

But I appeal to the whole corps of officers amongst whom I rank, to say if it be *possible* for a General Officer commanding his Majesty's forces on a Foreign Station, so far to forget himself as to expose himself to the *consequences* of such a conduct, if his own mind did not restrain him. Why, had I really shaken a horsewhip over any officer while reprimanding him, I should long ago have been dismissed the service by a Court Martial, or, more probably, the King, in the exercise of his undoubted prerogative, would have blotted my unworthy name out of the list of those officers and gentlemen who have the honour of bearing his Royal commission. The very appearance of my name in the Army List at this day, gives a convincing refutation of this story.

Again,—I appeal to every man who knows me, and who ever served with me, whether it is in *my character* so to degrade myself—whether such an action on my part be possible—I, who in the whole course of my long military service, *never* lifted my hand, even in menace, against a private soldier—I, who never even swore an oath at a private soldier from the hour I entered the army to the present day—I, who never put but two officers under arrest, one of whom was this very Captain Somerset, and, he richly deserved it. I appeal to the whole of my military and private life—to all, civil and military, who know me, and I ask again, “is the thing possible ?” But, Lord Charles Somerset was told *at the time*, when he mentioned the matter to Colonel Bird, the Secretary to the Colony, that *no* such occurrence, and that *nothing like it*, had taken place: Colonel Bird, in the honesty of his mind, and in his love of truth, intreated Lord Charles Somerset *not* to repeat such an accusation against me, for, added he,

“ Every body who has ever seen or heard of Sir Rufane Donkin, will exclaim that the thing is impossible ! but, my Lord,” continued Colonel Bird, “ *I was present at the whole interview !* Sir Rufane Donkin was highly displeased with

your son, and he had reason to be so ; but he made use of *no* menaces either of word or action; *he had no horsewhip*, for he was driving his curric! Do not imagine that I am advocating Sir Rufane Donkin's cause ; I am advocating *yours*, my Lord, and I again entreat you, for *your own sake*, not to attempt to give currency to a statement, *which will only recoil on yourself !* ”

Are these last prophetic words verified at this day ?

I here subjoin, for the credit of Colonel Bird, the manly letter he wrote to Captain Somerset on the subject of that very reprimand I gave him, and I here declare, that if it had not been for Colonel Bird's *most importunate* interference—the only time he ever did interfere with me and my conduct as Commander of the Forces—I should certainly have brought Captain Somerset to a Court Martial, and, in giving way to Colonel Bird, I failed in a due performance of my duty. The return made to Colonel Bird for all this, everybody has seen. Here is this admirable and honest letter.

CAPE TOWN, October 2, 1821.

DEAR SOMERSET,—Your letter of the 30th of last month, which I received by the post of yesterday, appearing to me to be written under very erroneous impressions, and with feelings which are likely to lead to your serious injury, I am induced by the real friendship I feel for yourself and your father, to reply to it at some length, in order to endeavour to persuade you not to act under impulses which have their rise in error, and which, if they were even correct, it is your interest to combat and suppress.

But first, let me congratulate you once more on the termination of the fracas in which you had imprudently involved yourself. It is, I assure you, matter of lively satisfaction to me, to think, that the exertions of your friends led to the conclusion which ensued ; for having felt, and still feeling, that you had put yourself in the wrong throughout, and that the consequences could not but have been most fatal to your reputation and interests, had the course been adopted which was likely to have been pursued ; it is indeed a pleasure to me to know that the storm has passed for the present. I speak thus freely and fully, because, having advocated your cause with an almost unbecoming warmth, and having almost offensively persisted in supporting the line of defence which you had taken, although I was aware how easily it might have been shaken, you must be convinced that I can have no interest more at heart than yours in this affair.

You are wrong in supposing that this matter can, or ever will be considered, by dispassionate persons, as a private quarrel between yourself and Sir Rufane Donkin ; it was by no means so ; it was an insult from Captain Somerset to the Governor and Commander of the Forces. The Governor, or Acting Governor, can on no occasion divest himself of the character he holds of the King's representative. It is in this character all public servants know him, and in this, and this only, that he is entitled to our support and devotion.

You are equally wrong in supposing Sir Rufane to be your father's representative here ; he is no such thing ; he holds his authority by his Majesty's commands, signified to him through the Commander-in-Chief on one hand, for his military situation, and through the Secretary of State on the other, for his civil one. He acts in the King's name, and in the King's name only ; he holds his authority, however, only while your father is absent ; upon his return his temporary command immediately ceases. While he commands here, he has precisely the same power and privileges which your father had, and any accommodation he may have shown your father in giving up the lands, &c. attached to the Governor's situation, was matter of pure courtesy ; those lands could not be alienated from his government, and were and are under his superintendence—the claim you put in, to interfere with any thing left on the Government Property, is one which could not be for a moment supported : your father left no such commission with you, and if he had, you could not have acted upon it. It is not my intention by this explanation to review all the circumstances which passed last week, let us rather bury them in oblivion ; but I wish to shew you, from this plain statement, that you have misunderstood the import and circumstances of what passed on the road, when Sir Rufane met you : it is true, that you met him in a state of great irritation,—you are aware of the unusual interference which had caused that irritation ; but it is not correct in you to assert that any “unhandsome allusion was made to your father” in any part of what Sir Rufane addressed to you on that occasion. The impression Sir Rufane's observations made upon me was, that he endeavoured to convince you of the nature of the situation he filled, as I have above described it ; and that because your father had left a team of mules upon the lands cultivated on his account at Newlands, it did not therefore follow, that any other person than himself could by any means be allowed to interfere with that team.

In our many conversations since your return from the frontier, I have endeavoured to do away the opinion you appeared to have unguardedly imbibed, that there was an hostility on the part of Sir Rufane towards you. I cannot understand whence this feeling has originated ; you have made no one application to Sir Rufane which he has not complied with, and of the many arrangements your father requested him to make, not one remains unexecuted. This is a better proof of his feelings in your regard, than what you may pick up from the idle talebearers of this inventive town ; to these I would have you, if possible, adhere ; but, think not, that I have any motive for giving you this advice beyond that of your own interest, and that of the community we live in.

It is your interest, and that of your father, that he and Sir Rufane should meet upon apparently good terms ; and I wish to convince you that you will do yourself an injury, by attempting to impede it, as your letter to me insinuates that it is your intention to do. The complaints which Sir Rufane, not only on the late, but on many other occasions, has to urge against your indiscreetness (for you know how everything is repeated here) are now smothered, and will probably remain so ; but flame only smothered is easily rekindled. Sir Rufane goes home, and at home he has it in his power seriously to injure you ; I happen to know, that he

If, therefore, Sir Rufane is goaded, it is impossible to foresee the extent of injury he may do in that quarter ; and it is to that quarter that you are to look forward for your rise in life.*

Let me intreat you, therefore, to consider this well, and to act with that discretion in consequence, which you would be the first to recommend to any other person. It is not decorous in you who hold a high station under the Government of Sir Rufane, to censure his conduct or administration ; it is not politic in you to open your mind on these subjects indiscriminately to many persons, who repeat what you may say, with exaggerations perhaps, which would stagger you to hear.

You may depend upon it, that it is, and must be, Sir Rufane's wish to part from this Government in harmony with the Authorities he will leave behind him ; and this is and should be your guarantee for his receiving favourably those acts of conciliation to which he is unquestionably entitled. I only call upon you for forbearance, and to forbear for your own interest and that of your family. I do it in the warmth of friendship, and in gratitude for favours I have received from your father.

I beg you will not mistake my intentions, but believe me, &c. &c.

(Signed) C. BIRD.

To Captain H. Somerset, &c. &c.

Colonel Bird has repeatedly told me, and written to me, that Lord Charles Somerset, from the moment he saw this letter to his son, determined on his ruin, and avowed the determination in the hearing of a person whom he is ready to bring forward to confirm this upon oath. How differently are men's minds affected by the same circumstance. Had my boy been of an age to get into such a difficulty in my absence, and, had any friend of mine written to him such a letter as the above, I should have loved him as a friend, and honoured him as a man, to the latest hour of my life !

A strange piece of information was conveyed to me by the above letter, and of which I never dreamt till I got it, which is the opinion entertained by the Captain, that I was " his father's representative " !!! He could have known but little of ME, and of my character, to have supposed for one instant that I could ever have placed myself in such a predicament ! but another strange part of the story is, that Captain Henry Somerset, of the Cape corps, and a Deputy Landdrost, that is, a Judge and Magistrate, did not himself know, or recollect,

* I appeal to all the Public Departments in England, if ever I have uttered or written one syllable to Colonel Somerset's prejudice since I have been in England, or before my arrival here.—R. S. D.

in WHOSE name and behalf *he* had been so long dispensing justice from the judgment-seat as a Magistrate and Judge on the frontier ! Certainly *not* in his father's name, when he was present ; nor in mine, when his father was absent.

By way of concluding this affair of the horse-whip, and to show the fatal consequences which this honest and manly letter have entailed on Colonel Bird, I give an extract from a letter from Colonel Bird to me, dated

CAPE, March 4, 1825.

Lord Charles has persecuted me ever since his return from England in a way not to be credited, solely in consequence of the support I gave to your measures, and the visits I paid you when you were in the Castle. This he avowed ; Wilberforce Bird told it me without hesitation or qualification ; besides, he never forgave my having told him, that when his son said that you had shaken your whip at him on the Rondebosch Road, he asserted what was not correct, as, *no such circumstance had taken place, which I, who was present, could testify*. This was the offence which I have not yet expiated, although it has brought me and mine to utter ruin ; from that moment he withdrew all public and private confidence, and never quitted me till he had crushed me ! I might, however, ask, whether the *consequences* have been satisfactory to Lord Bathurst ? Prior to this, things went on quietly and orderly, and to the Secretary of State's satisfaction, as he frequently expressed ; mind, I speak of *public* affairs, not of *private acts*, nor of the * * *, nor of the * * * ; with these I had nothing to do, and only heard of them as others did.

After I was removed from confidence, and when another system was introduced by Wilberforce Bird's advice, instead of the one I always acted on, and induced Lord Charles Somerset to adopt, has any colony or government presented such a scene of confusion, iniquity, and malversation ? Upon the answer of this query I will cheerfully stake my character and reputation. It can avail me *now* nothing ; but I look *back* with pride. I might also ask, if the result has been beneficial to Lord Charles ? I think not ; on the contrary, he has, since our separation, been persuaded to acts and measures which must, at no distant period, cause his ruin. The only person who has profited is Wilberforce Bird, who was rewarded with the Assessorship ;* and with a second situation, the Wine-tastership, for his son-in-law, Mr. Hare.

I conclude by saying, that you are at perfect liberty to read or shew this explanation wherever, and to whomsoever you may think proper.

(Signed) C. BIRD.

* To the Court of Appeal, being at the same time Comptroller of the Customs. Cases of Appeal on certain Custom House questions occasionally came before the Governor into that very Court, of which W. Bird was appointed Assessor ; all was of a piece !—R. S. D.

The preceding extract was taken from the close of the letter. Below will be seen an extract from the same letter, respecting Mr. William Parker.

I republish from the newspapers a letter I addressed last week to Lord Caledon, on the subject of Colonel Bird, late Secretary at the Cape of Good Hope.

I am induced to do this, partly to give that letter a more extensive circulation, in justice to Colonel Bird, and partly as an introduction to an extract from a letter from Colonel Bird to me, which will throw some light on my letter to Lord Caledon, which, although plainly, and I hope intelligibly, written, as to its main object, yet still requires a short commentary on one part of it, (Mr. Buissinné's case,) which the extract I give will afford.

Subjoined are also some explanatory notices relative to Mr. W. Parker, and his complaints against the Colonial Government in general, and of Colonel Bird in particular.

PARK STREET, GROSVENOR SQUARE, *March 28, 1827.*

MY LORD,—I shall make no apology for thus addressing you without your leave. Your honourable and most useful administration of the Government of the Cape of Good Hope, makes you public property whenever the affairs of that Colony come under discussion, and I will say here, that during the two years I held the Government of the Cape, I was in the constant habit of hearing your name mentioned with a respect, affection, and gratitude, which must, as long as these feelings last, (and, I believe, they are still unimpaired, identify you with the happiest and brightest days of that interesting part of our colonial possessions, and with the best affections of all its inhabitants.

I am induced to take this mode of addressing your Lordship, from the petition which I have presented to the House of Commons against an undue return for Stockbridge, not coming on for consideration until May, when, should I succeed, it will be too late to raise my humble voice in that House in connexion with what your Lordship is stated to have said last night in behalf of a most honest, faithful, and industrious public servant, Colonel Bird, late Secretary to the Colony of the Cape of Good Hope, and whose name, I see by the papers, has been brought before the House of Lords, in a petition presented from Mr. William Parker.

The first act of justice I owe to Colonel Bird is to declare in the most unqualified terms, that whatever may have befallen Mr. William Parker at the Cape was my doing and mine only.

Colonel Bird never, either directly or indirectly, showed or expressed the slightest hostility towards Mr. William Parker, and I hope I need hardly add, that I myself never could have had any such feelings towards a person I never saw but once, and who, in that interview, expressed

himself as quite satisfied with the explanation I then gave him, as to my powers and instructions touching the Settlers. But it was the fashion just about the time that I was leaving the Cape—and that fashion has not declined since—for certain persons to heap on Colonel Bird every species of odium ; and this sort of persecution, wherever originating, has terminated, if not as a direct consequence, at least as a result, in the ruin of that meritorious public servant.

I feel myself called upon further to state, in favour of Colonel Bird, that for the first twelve months that I held the Government of the Cape, I never knew nor suspected that he was a Roman Catholic ; for he never, in any shape or way, evinced his partiality for persons of that persuasion, nor did he ever shew either hostility or intolerance towards any one of the Established Church, or of the numerous sects which inhabited Cape Town.

But Colonel Bird has been accused of exercising a baleful influence over me, and of having held me in trammels which he loosened only when he wanted to direct my Power to serve his own ends. Those who know me at all will not wonder that I never condescended to contradict such a fable as this. Those who know me are well aware too, that it is not easy to put me in trammels or to hoodwink me. But Colonel Bird has declared—and I suppose he knows best—that he never had less influence, perhaps never so little, under any Governor as under me. I have held high military situations from a very early age,—I have always been in the habit of doing my own business,—and when I found myself at the head of a Civil Government, I pursued my old independence, and acted for myself, taking for my guides honesty and good intentions.

With Colonel Bird I was never in habits of intimacy—there was no strong private friendship between us—we were united only by our official relations, and acted together without difficulty or collision, because we were actuated by a common principle—an anxious desire to carry on the Government of the Colony for the benefit of the inhabitants and of the empire at large—and because we were neither of us in pursuit of any interests or views of our own.

But, as I have said before, it was the fashion to load Colonel Bird with every thing ; amongst others, with the sin of a small salary of about £50 per annum I gave to the Roman Catholic Priest at the Cape. This act of my government I am prepared to justify, if ever called on to do so ; but, whether right or wrong, it was my act, and Colonel Bird received my orders to make out the usual warrants, without uttering a single remark on the matter from first to last.

Again, the strongest invectives have been lavished on Colonel Bird, for having induced, nay, forced me to appoint his brother-in-law, Mr. Buissinné, to the high office of Receiver General of Revenue, when I ought to have known that he was unfit for that office ; and, in fact, this Mr. Buissinné did become a public defaulter afterwards to a large amount, was put in jail, and subsequently banished. But Colonel Bird never dreamt of this appointment till I put my orders for it into his hand at the Government House, when indeed he did show something like an opinion of his own, for his countenance betrayed at once surprise and disapprobation ; but, as I never admitted of discussion

when I had once determined, I proceeded to other business, and so prevented him from speaking on that subject. Now, this appointment of mine may have been a good or a bad one, but the act was mine wholly, and not Colonel Bird's.

The manner was this :—When I appointed Mr. Buissinné, I had never seen him but once, and that was at my first levee, with all the other public functionaries, he being a member of the Chief Court of Justice, where he had been placed by Lord Charles Somerset ; and the plain truth is, that I appointed Mr. Buissinné to the Receiver Generalship *solely* in consequence of a strong written recommendation in his behalf, given to me by Lord Charles Somerset, and which is now on my table before me.

In this way has Colonel Bird been vilified and misrepresented—under assaults like these he appears to have fallen. He is ruined—but he bears his ruin with fortitude. He has lost the office which he so honestly filled for many years—but he consoles himself with looking back on the honourable and pure manner in which he discharged his duties in that office. His hands are clean, and he can show them without a blush. He has made enemies, but most of them have been created by Colonel Bird's undeviating pursuit of the straight path, and, perhaps, by a too uncompromising expression of his own straight-forward opinions.

Should I succeed in establishing my seat in the House of Commons, Colonel Bird shall not want a defender there whenever he may be attacked. In the mean time I cannot, nor do I wish to refuse to him my humble testimonial in his favour, although I am obliged to have recourse to a mode of communication I had rather have avoided, could I have done Colonel Bird public justice by any other means. I have &c.

(Signed) R. S. DONKIN.

To the Earl of Caledon.

I now come to the commentary—Colonel Bird writes to me as follows, under date, Cape Town, Oct. 31, 1823 :—

(*Extract*).—I have just learnt that Lord Charles is imputing great blame to me for Mr. Buissinné's appointment, and *that it is shameful that I, knowing his extravagance, should have recommended him to you for such a situation*. I should be sorry to be so false as to deny the interest I have always taken in Buissinné, but I never disguised that I was aware of his extravagance from Lord Charles or you.*

* Had I not stopped Colonel Bird's mouth in the way I have described in my letter to Lord Caledon, in all probability he would, when I ordered Colonel Bird to Gazette him for the appointment, have *then* told me of Buissinné's extravagance—of which I had *then* heard nothing. I was wholly ignorant of Mr. Buissinné's character ; and I pinned my faith on Lord C. Somerset's knowledge of his fitness for the situation, and on *his* recommendation *solely* I made the appointment. Had I known anything of the 26,000 Rixdollars mentioned by Colonel Bird, I never should have appointed him.—R. S. D.

I could not—I did not foresee how far he would forget himself, and what he owed to me—but, after this acknowledgment, I beg to add, *that Lord Charles Somerset recommended Mr. Buissinné to you himself*, and expressed his wish that something might be done for him, which you scrupulously attended to on the vacancy, as you had invariably acted upon *every recommendation* given into you by Lord Charles Somerset.* The truth is, Lord Charles Somerset did not recommend Buissinné to you out of any good will to me, but because *Buissinne being greatly indebted to him, (26,000 Rixdollars) he wished him to have some lucrative situation which might enable him to discharge that debt.*—And it is not improper here to state farther, that this debt was transferred by Mr. Proctor to Lord Charles, and arose out of an imprudent speculation in horses, which Buissinné was induced to enter into, the stallions and most of the mares having been furnished by his Lordship to this concern—Buissinné's horse speculation† was a total loss to him of principal and interest!

So then, after all my boasting in my letter to Lord Caledon, that it was “not easy to put me in trammels, and to hood-wink me,” here have I been made a cat's-paw of at last; and I am here “writing myself down” as such, before the public!

I shall just add here, that I rather imagine the Secretary of State for the Colonies will find in his Office a distinct and formal complaint against Colonel Bird, for “hood-winking” and “trammelling” *me on this occasion* of Buissinné's appointment, with some edifying observations on the mischiefs arising out of the Government falling into the hands of so weak and inefficient a person as myself. I do not think, however, that any body will accuse me of want of efficiency *here*, after producing such a pamphlet as this.

As my letter to Lord Caledon had its origin in a petition from Mr. W. Parker, it may not be improper here to say a few words on that person. I will despatch what I have to say in

* Yes, I certainly did; and Colonel Bird, in one of his communications to the Commissioners says, that the most defective, and least defensible part of my administration was my too close and too scrupulous adherence to the recommendations with which Lord Charles Somerset had saddled me; but I started on a principle of courtesy and good-will towards him, and declared, when he sailed, that neither his sons, nor his friends, should feel his absence.—R. S. D.

† I have the details of this transaction in my possession; but, as I have to deal with Lord C. Somerset's *public* conduct *alone*, I will not here, and I hope I have not elsewhere, throughout these pages, made, *myself*, the slightest allusion to transactions in horse-dealing, or allowed a single expression of personality to fall from my pen.—R. S. D.

regard to myself, as concerns him, in a very few words. It was my wish, my duty, and my interest, to forward all his views, as far as I could, at the Cape ; it was my interest, for the more satisfied the Settlers were with me, the more creditable would my Administration be ; and every complaint *against* me to the Secretary of State, would, until refuted—and it is not always easy to refute accusations boldly advanced—cause a diminution of the good opinion of his Lordship pro tanto. Towards Mr. W. Parker I certainly never felt the slightest ill-will ; nor do I feel any at this hour.

I will begin here by inserting a letter I felt myself called upon to write to Sir Benjamin Bloomfield, at that time in his Majesty's Household.

GOVERNMENT HOUSE, CAPE OF GOOD HOPE, *July 20, 1820.*

SIR,—I take the liberty of addressing you on the subject of a Mr. W. Parker, a Settler lately arrived here, who has been very pressing in his demands on this Government, and who has brought forward the name of his Majesty, stating, in pretty strong terms, that any attention shewn to him would be agreeable to the King ; and, by inference, from the tenor of Mr. Parker's letters, that any neglect of his applications would be displeasing to his Majesty.

I trust that it is not necessary for me to say, that the slightest intimation respecting Mr. Parker, in the name of the King, coming to me through any sort of accredited channel, would have been immediately attended to by me, with that dutiful respect which I owe to any intimation coming from my Sovereign ; but in the absence of every sort of communication from England respecting Mr. W. Parker, except from himself, I hope it is not too much for me to pause on what Mr. Parker advances, particularly when it is coupled with the extraordinary requests that I would, in one instance, displace a Magistrate (a Deputy Landdrost) from his office, and put Mr. Parker in his room ; and in another, that I would make an arrangement in his favour, which would cost this Colony full £5000.

It is true that Mr. Parker has forwarded to me a note from Lord Ennismore to him, and one from you to Lord Ennismore, the latter expressive of the Prince Regent's acknowledgment of a communication from Lord Ennismore ; but in as far as it regards Mr. Parker, I can discover nothing more in your note to Lord Ennismore about him, than that general expression of benevolence and graciousness, and that attention to private feeling, which have so peculiarly accompanied his Majesty through life.

My object in troubling you thus, is to guard against any misrepresentations of Mr. Parker, and to solicit your good offices, should they be required, to assure the King of my most dutiful respect in all cases in which I may be honoured with any notification of his Royal pleasure. I have &c.

(Signed) R. S. DONKIN.

I will pass over all the harassing correspondence between Mr. W. Parker and the Colonial Government ; and proceed to say, that immediately on Lord Charles Somerset's arrival, he was received at the Government House as an injured man ; and his memorials, and in particular a letter to the King, were corrected by the Governor himself—of this I have proof ready, whenever called for. But his days of favour seem not to have been of very long duration, and the Governor determined to send him to England, to enlighten the Colonial Office on the oppressive and indefensible measures pursued towards him by Colonel Bird and myself.

I have no fault to find with a Governor abroad, for sending an agent to England to represent him as his friend and confidant ; nor have I the least reason to find fault with the choice made on the present occasion, which was quite a matter of taste, and with which I have no concern ; but I have some concern with, and I do find fault with, Lord Charles Somerset's sending Mr. W. Parker to England as his own personal envoyé, *at the public expense* ; and I here subjoin what it cost the public to convey Mr. W. Parker from the shores of Southern Africa to Downing-street.

	Rixdollars.
Mr. Parker had bought, at a <i>public</i> auction, amidst a fair competition, the estate called the " Government Post," for	13,333
But when it became desirable to send him to England, it was necessary to take this Government Farm off Mr. Parker's hands, and Lord Charles Somerset cancelled the sale, and ordered the estate to be put up to auction again, when it fetched only	6,666
Which caused a loss to Government of	6,667
The interest due from Mr. Parker, and the transfer dues, a source of Colonial revenue, were given up to Mr. W. Parker, to smooth his departure, by which the Colony lost	1,600
The Colonial Bank was ordered to make him an advance of	3,000
And £250 was paid him out of the <i>military chest</i> , as passage money, with <i>which</i> chest I never could comprehend Mr. W. Parker's connexion or sympathy.	
This £250 may be taken at	3,000
Making a total of .	14,267

Which, at the then rate of exchange, amounted to about £1300 sterling, a larger sum than is allowed, I believe to convey a Commander-in-Chief to Bengal.

If it be contended that Mr. Parker had had a hard bargain at the sale, there are two answers ready—one of reasoning, and the other of fact. The first is, that Mr. Parker bought the land with his eyes open, at public auction, with all the circumstances before him, and after a long residence *not far from the spot*. If therefore a public Government sale of this sort is to be annulled, and, for a man too who most assuredly had *no claim whatever* on the Government, no Government sale can ever hereafter be considered as closed or secure.

But, to come to my *fact*; it was *not* a hard bargain, for the representative of Mr. Colebrooke, a gentleman of fortune, was the next bidder to Mr. Parker, and was very near him in his bidding, and by universal opinion the property was worth the money; but after being a considerable time in Mr. Parker's hands, where it was much neglected and deteriorated in every way, and the Colony having in the mean while fallen into much pecuniary distress, (this was after Lord Charles Somerset's return to the Cape,) the second sale brought only the very moderate sum I have cited. Some of the details of this transaction are entered into by Mr. D'Escury, in his paper before the Commissioners marked No. 8.

But to return to the military chest. I have just laid my hands on the document authorising the payment of the said £250, which I see amounted to Rixdollars 3502 4 2½; so that Mr. Parker's voyage to England is more expensive by about £45 than I have calculated it at.

This document is addressed to "R. Rogerson, Esq. Asst. Commissary General," by "G. J. Rogers, Military Secretary," in the name of the Commander of the Forces, and is countersigned by "Wm. Hayward, Commissary of Accounts."

I see on the face of it that the plea taken for the issue is, "on account of rations issued to other Settlers, but which Mr. Parker never drew!" As I have only just found this paper, I have looked more than once at it, to be quite sure that I have made no mistake on this point. However, the writing is plain, and on this plea of rations I have some important remarks to make.

1st. Rations were not issued to Mr. W. Parker, for reasons of which I made a detailed and full report to the Secretary of State, and which I have a right to suppose were satisfactory,

since no remark to the contrary has ever been made to me.

2dly. If "back rations," as they are technically called in the Army, were to be paid for *at all*, they ought to have been paid to Mr. Parker *and his party*, who had the same right to anything of this sort as *he* had, and, not to him alone, at the moment of his departure ; but this money was paid to him alone, *and as passage money*.

3dly. I believe that there exists to this day a peremptory order from the Treasury not to issue or pay for "back rations" to any officer or soldier, and on the following simple and reasonable grounds. The ration is issued, that the man shall *not perish, or be unequal to his duties for want of food*, which food his own providence and exertions would not always find for him. Let us suppose this ration to consist of 1lb. of meat and 1lb. of bread, and a man to have failed, from whatever cause, to draw it for 100 days, and he then demands payment—what does the Treasury say ? *No*—the ration has no "quantum valeat" *in money*, it must be *consumed daily* on the exigency ; but if a man goes 100 days without his rations, his coming himself to demand money for them, is proof that he has not died of hunger, and he must be told that, although he may begin drawing rations to save him from prospective death by starvation, he cannot be paid for having been starved to death retrospectively.

This is the philosophy of the Treasury, and in my humble apprehension it is very sound. However, Mr. W. Parker appears to have got over all this, and many other considerations, and to have dipped his hands into the military chest, and to have brought out to the amount of £250.

It is time, however, to look at some of the events and circumstances which preceded Mr. W. Parker's embarkation for England, which is thus detailed to me in a letter from the Cape at the time.

. . . . but Parker's demands increased in proportion as anxiety was evinced to get him out of the Colony.

Then comes the detail of the sum paid to get him away, the items of which I have just gone through.

The writer goes on, but I doubt whether even this will stir him. He must have *more*. He is too deep in the *secrets* now, and it will not do to offend him. He

knows that the trade of horse-dealing having slackened, in consequence of the boors being all ruined, the public has been made by the most extraordinary means to supply the deficiency. He (Parker) knows that the old Groote Post stallion, Orville, was transferred to the Somerset Farm Establishment, and paid for at the enormous sum of 5550 Rixdollars, in order to enable Groote Post Farm to pay 7000 Rixdollars for Vanguard, one of the new importations ; and as this amount was insufficient to cover the demand for that miserable animal, two bulls of the Devonshire breed, (not worth 100 Rixdollars each,) were palmed upon the Somerset Farm, and Mr. Hart's (the Accomptant's) book stands charged with 1200 Rixdollars for them !

I must add, that neither of these bulls reached their destination ; one died at Port Elizabeth ; the other was killed on board the *Locust*. Mr. Parker also knows that his friend Proctor bought one of the new importations for 6000 Rixdollars, and had the quit-rent of his farm reduced forthwith from 500 Rixdollars, at which it had been granted *in perpetuity by Lord Bathurst's orders*, to 200 Rixdollars. Thus amply repaying Proctor for the sum he had laid down. But were I to enumerate all the anecdotes of this sort, which are here as public as the sun at noon-day, I should indeed be long before I had done. The above are *facts*, which may be proved from public official documents. The amounts paid and transferred are to be found in Mr. Klerck's accounts of the farms ; and the extant *grant* to Mr. Proctor at the reduced quit-rent of 200 Rixdollars, will speak for itself. Every body here blushes for the English character ; but all this is *nobody's business*, and so we continue to lie under national disgrace. A Frenchman, the Baron de Richemont, has just left this place, where he has picked up all these anecdotes, and is gone away quite loaded.

This is followed by some facts and calculations to show that Proctor's quit-rent had not been fixed too high at 500 Rixdollars ; but even if it had, it had been fixed by Lord Bathurst, and as this revenue belonged to the Crown, it could be alienated only under the authority of a minister of the Crown.

Mr. D'Escury, in an official paper printed in the letter, has already touched on some of these points. The writer of what I have just been quoting, is *not* Mr. D'Escury, but as he points out the very places where proofs may be had, it is of very little consequence *who* he is.

I now give an extract from Colonel Bird's letter to me of the 4th of March, 1825, which he ends by authorizing me to shew it or read it whensoever and to whomsoever I please.

The complaint, not charges, I was about to make to Lord Bathurst, in September, 1822, related solely, and exclusively, to the encouragement which had been given to Mr. Parker, by which religious antipathies had been excited here, never before known in this Colony,—feelings which were fostered, and

artfully expanded, with a view of exciting a strong prejudice against me ; and, when the enthusiasm began to subside *here*, Mr. Parker was sent to England at the public expense, to endeavour to create a similar sensation there ; as in fact he did. *You* know that this complaint is neither “ false,” “ unsupported,” nor “ exaggerated.” I did not, however, think it right, or generous, to lay the complaint before Lord Bathurst, without apprizing Lord Charles that I should do so. I therefore informed Wilberforce Bird, his confidential friend, and a person under considerable obligations to myself, what I was preparing. He acquainted Lord Charles with the circumstance ; a great deal of irritation was the consequence : Wilberforce Bird represented to me how injurious the measure might be to both parties, and used every art to get me to withdraw the complaint, which I consented to do, *on receiving an assurance in writing* that Parker had *not* received countenance or support from him. This I knew to be false, but it was a written acknowledgment that support *ought not* to have been given to him.

I did not *retract* or *concede*, but when the affair was over, and I had received the written acknowledgment, I, at Wilberforce Bird’s request, wrote a civil note to Lord Charles, in which I said that I hoped the “ discussions ” would be erased from his memory. Now, this happened in September, 1822, (dates are of great consequence here,) and although I know that Lord Charles did everything he could to undermine me, both here and elsewhere, I am inclined to think, indeed I know, that he made no complaints till November, 1823, when, I am told, he coupled me with Buissinné’s case, and made his doleance at full length.

I have one word more to say about Mr. W. Parker, and then I have done with him.

The letter I received on Saturday last from Mr. Hay, was calling on me for an explanation why I had issued No. 37 of a General Order, directing all Kaffers who came into the Colony, whether armed or not, to be shot.

As I had answered this very question three years before, I did not much like being thus called on again ; but, as the inquiry is set on foot *nominally* by Mr. Parker, but in reality by somebody else, I shall here subjoin my answer to the inquiry, when first made by Mr. Wilmot Horton ; after the reading of which I trust and hope that no Member of either House will think it necessary to present any petition on *that* subject from Mr. William Parker.

See letter from Sir Rufane Donkin to R. W. Horton, Esqre., of 16th March 1824, Volume XVII, page 149.

I shall finish what I have to say about Mr. W. Parker at present, by subjoining an historical minute, which was drawn up at my desire, when I saw the line Mr. W. Parker was taking,

in order that I might have it ready to meet his representations, and which details the events and principles under which Mr. W. Parker began his career in that Colony.

(*Minute.*)

His Excellency the Acting Governor having decided, previous to commencing his journey to the frontier District in April last, not to confine the location of the Emigrants expected from Europe, to the Albany District or Zuurveld only, but to place parties in several eligible situations throughout the Colony, his Excellency gave instructions for locating the Settlers from Cork, when they should arrive, in that subdivision of the district of Tulbagh, on the west coast, called Clan William.

This situation, the residence of a Deputy Landdrost, had been very favourably spoken of to his Excellency, by a Magistrate who had long resided there : well watered, it has the Oliphants River running through it, which at a distance of only twenty miles becomes navigable to the sea, where it is supposed not to be obstructed by a bar, as the rivers of this Colony mostly are. Mr. Buissinné therefore, Acting Inspector of Lands, in the absence of Mr. D'Escury, was sent thither to superintend the survey of the unoccupied Government lands, and to make a general report on the capability and circumstances of this district. Previous, however, to his having completed these operations, but subsequently to Sir R. Donkin's departure for the frontier, the *East Indian* and *Fanny* transports from Cork, arrived in Simons Bay ; Mr. Parker, the head of the principal party, came to Cape Town, and saw the Colonial Secretary, who informed him of the destination of the Settlers under his direction : Mr. Parker appeared disappointed ; he said, he had been assured he should be allowed a choice of situation, and that he had come out with the full persuasion that he should be settled at the Knysna ; Lieutenant-Colonel Bird informed him, that the lands at the Knysna were private property, and that he had no alternative but to order the transports forthwith to Saldanha Bay, where the Emigrants would be disembarked, and where every preparation had been made for their subsistence and conveyance to their ulterior destination. Mr. Parker begged to go to the place of location by land, and to join his party on their arrival at Saldanha Bay ; facilities were afforded him for this object, and letters of introduction to the Authorities at Clan William were given to him by the Colonial Secretary.

In the mean time various complaints had been transmitted to the Colonial Office, from persons attached to Mr. Parker's party, against that gentleman : and he, on his part, complained heavily of the conduct of many who had embarked with him, particularly of the Chaplain, Mr. M'Cleland, Mr. Woodcock, and Captain Seaton. As no cognizance could be taken in the Colonial Courts of what had passed at sea, it could only be recommended to each party to forget or stifle their animosities or wrongs, and join heartily in the endeavours for which they had left their country, as without unanimity, they were told, success could not be anticipated. It appeared, however, that such was the disorganized state of this party, that no good could be expected from

it; and, in transmitting the statements of each side to the Governor, who was absent on the frontier, locating the Settlers in Albany, the Colonial Secretary gave his opinion, that these Settlers would not answer the expectations formed of them.

Mr. Parker, according to the intention above alluded to, proceeded to Clan William, and met the transports, *East Indian* and *Fanny*, at Saldanha Bay, where the Landdrost of the Cape District, to whom had been entrusted all the arrangements for the transport and maintenance of the several parties, awaited him. The parties under Messrs. Ingram, Synnot, and Butler, set out for their destination in the most orderly manner, and in good spirits; Mr. Parker informed the Landdrost, that he might dismiss the waggons collected for his party, as he was determined not to proceed so far from the sea shore; that his views were commercial, not agricultural; and that the situation and soil of Clan William were not calculated for his purposes in any degree.

As it was very onerous and inconvenient to the inhabitants (it being the ploughing season) to remain with their waggons any indefinite or unnecessary time, the Landdrost did dismiss the farmers, whose waggons and teams had been impressed for this service, and he reported the circumstances in which he was placed, to the Colonial Secretary.

Meanwhile Mr. Buissinné's report reached the Colonial Office, and from the plan which he had caused to be framed, the Colonial Secretary ordered the location of the several parties in the same manner as had been practised for those sent to Zuurveld, assigning to Mr. Parker's party the well watered loan place, the Kleine Valley.

Mr. Parker had written to the Colonial Secretary to the same effect as he had communicated to the Landdrost, stating that it would better suit his views to be settled at Saldanha Bay, where he proposed to build a town, to be called New Cork, and suggesting that the Colonial Government might afford him the means of purchasing Mr. Watney's rights at that place. Mr. Watney, it was understood, asked £5000 sterling for the ground claimed by him there—Lieutenant-Colonel Bird answered, that his instructions did not allow him to entertain these points, and that, therefore, *he had given directions to the transport East Indian to proceed, without delay, to Algoa Bay, where Mr. Parker's party would be located with the great mass of Settlers in the Zuurveld. Upon receipt of this communication, Mr. Parker changed his mind, and begged to be furnished with the means of going to Clan William, to which the Landdrost (notwithstanding the inconvenience) having assented, the party set forward, and took possession of the location assigned to them; Mr. Parker, family, and servants, remaining in Mr. Watney's house at Saldanha Bay.*

When his Excellency, the Acting Governor, returned to Cape Town, Mr. Parker came to him, and represented the inadequacy of the Kleine Valley for his party, in consequence of the badness of great part of the soil; Sir Rufane Donkin asked him how much good land he admitted it to contain? To which he replied, not more than 1700 morgen, or 3400 acres. Sir Rufane said, "Well, I will take *your* estimate, without further inquiry, and you shall receive it only as *that* quantity; and the difference between that quantity and what your numbers are entitled to, shall be made up to you in adjacent

lands ;" directions to which effect were immediately given. Mr. Parker represented, at the same time, that his own views would be frustrated by going to Clan William, and begged that he might be allowed a spot to erect stores on at Saldanha Bay. This was also immediately directed by the Acting Governor, and four acres allotted for the purpose, in a situation approved by his Excellency, on inspection of a plan of the Bay, so as not to interfere with private property, or with those sites which it has been deemed necessary to preserve for the use of the public.

Great discontent and disunion still prevailing in Mr. Parker's party, which dissatisfaction had been increased by Mr. Parker's having refused to take tents or tools for their use from the Commissariat, the latter, because it interfered with a retail he was endeavouring to push, of tools he had purchased at the Town, at prices far greater than those charged in the Commissariat List, his Excellency the Acting Governor proposed to remove as many Settlers as wished to leave Clan William, at the Colonial expense, to the Albany District, and eighteen heads of families have availed themselves of this offer, and have been located in the Zuurveld ; Mr. Parker himself not having thought it advantageous to his interests to remove to Albany, remained where he was.

It appears, therefore, that Mr. Parker had knowledge of the site upon which he was to be located previous to the debarkation of his party (an advantage no other head of a party had enjoyed) ; that it was optional to him to have gone to Clan William or the Zuurveld, in the first instance, but that he preferred the former ; that at a subsequent period he declined to be so removed, although he stated his dissatisfaction with the lands assigned to him ; that, according to his own acknowledgment, there is more good land at the Kleine Valley (1700 morgen) than the remains of his party is entitled to ; and, moreover, he has received, beyond what he was entitled to at Clan William, an eligible situation at Saldanha Bay.

C. BIRD.

COLONIAL OFFICE, CAPE OF GOOD HOPE
September 27, 1820.

I shall place here, together, several miscellaneous papers relative to the foundation and progress of Bathurst, Fredericksburg, and other matters connected with the Settlers, that some idea may be formed of what was doing, what was actually done, and of what has been undone. The first thing I shall give, is the Cape Gazette account of the state of Bathurst on my second visit to it, when my arrangements and institutions had taken some root, and when the Settlers were looking forward to the realization of their hopes in the next year, but which unhappily they were doomed never to see ; and this shall be followed by a curious but very natural letter from the Agent, and Representative Precursor of General Campbell and his party, named Cypress Messer, in whom age, for he was near

sixty at the time, had not damped any of that elasticity on which the dreams of Hope delight to dance. These smiling pictures would be as refreshing as the Oasis in the desert, after the stormy and desolate scenes we have been viewing, were it not for the reflection which instantly forces itself on the mind, that Bathurst and its inhabitants, with all their hopes and anticipations, were soon to be involved in the common ruin !

CAPE TOWN GAZETTE, *Saturday, 23rd June, 1821.*

His Excellency Sir Rufane Donkin, having, during his stay at Graham's Town, insured the arrangements for the future government of the Albany District, by the appointment of Major Jones to the Civil and Military Command on the Eastern frontier, and by the selection of Messrs. Campbell and Bowker, as Special Heemraden ; he left that place on the 28th of May for Major Pigot's location, where His Excellency and suite were most cordially welcomed. Major Pigot, no way dispirited by the misfortune of the last year's blight, has been indefatigable in his agricultural exertions ; his fields are beautifully enclosed and cultivated, his stock of black cattle and sheep is extensive and select, and his garden is admirably supplied with every description of vegetables, and with all the numerous fruits with which the several parts of the Colony abound. His House is not more than half finished, but it will be spacious, substantial, and elegant.

It was highly gratifying to His Excellency, not only to have witnessed the progress made on this location ; but to have found, that the best spirit prevails among the whole of the Settlers, who are sanguine in the hopes of the ultimate success of their undertaking, and indefatigable in their exertions ; the greatest confidence has been kept alive among them, by the unremitted attention of the general and local authorities to their necessities.

Neat and beautiful cottages are fast spreading over the surface of the picturesque district of Albany, and the town of Bathurst is rapidly increasing ; several excellent houses are already finished, and many more in a state of great forwardness. The Drostdy House is nearly completed. Mr. Jarman is building an inn, to be called " The Bathurst Arms," upon a large and comfortable scale, and with the best prospect of success.

His Excellency arrived at Bathurst on the 29th, where the above-mentioned improvements forcibly struck him, and far exceeded any thing he could have anticipated ; on the following day His Excellency installed Major Jones in his office of Landdrost.

The hopes of the new Colonists are strongly excited by the prospect of the navigation of the Kowie River being found to be practicable.

Captain Moresby, last year, had regretted his not having the means of ascertaining fully the circumstances of this fine basin ; but since that time, several officers of H.M. Naval Service, now Settlers in Albany, among whom Lieutenant Moodie and Mr. Dyason have stated it to be their decided opinion, that small coasters may enter into the river, with facility and safety ; and, therefore, that a water communication from the centre of the locations, will

in future, supersede the heavy expense of land carriage to and from the new Settlement. His Excellency went thither on the day subsequent to his arrival at Bathurst, and has directed the *Locust*, with proper boats, to ascertain the point while he is on the spot.

The *Locust* left Table Bay prepared for this survey ; and has on board a life-boat, and other boats, for the purpose of effectually completing the survey of this interesting and important river.

Many of the Settlers are very confident on the subject, and one commercial gentleman, who was with Lieutenant Moodie when he made his survey, has written to England for a Humber boat, (which is said to be the best description of boat for the Kowie service,) for the purpose of commencing trading without delay.

Property, in the whole of the Albany District, will greatly increase in value, if the navigation of the Kowie succeed. Erven,* both at Graham's Town and Bathurst, continue to be in great request ; six were sold at the latter place, on the 1st of this month, at an average of 500 Rixdollars per acre.

His Excellency the Governor received a deputation from the Heads of Parties, and others, at Bathurst, on the 1st instant, when an Address was presented to him, a copy of which will be found in this paper. On Sunday the 3rd, His Excellency attended divine service at Bathurst, accompanied by Major Jones, (Landdrost,) and other functionaries. A considerable number of Settlers, with the military at present quartered at Bathurst, attended on this occasion. The service was performed by the Rev. Mr. Boardman.

This assemblage, and public homage to the Deity, in a place which a twelve-month since was a waste solitude, frequented only by wild beasts, was very striking and affecting.

The Address.

*To His Excellency MAJOR GENERAL SIR RUFANE SHAW DONKIN, K.C.B.,
Acting Governor and Commander in Chief, &c., &c., &c., Cape of Good
Hope.*

We, the undersigned, Heads of Parties, and other British Settlers in Albany, beg leave to address your Excellency, to express our gratitude, for the liberal manner in which we were provided and sent to this Colony, for the precautions which were previously taken, and for the ample supply of stores, of all sorts, which were furnished by the Government at home, to ensure our success, and future stability on our several locations.

We further beg leave to convey the expression of our thanks to your Excellency, to the officers of this Government, and to the local authorities here, for the zeal and kindness with which the intentions of the Government at home have been carried into effect, and for the constant care and attention with which our wishes have been met, and our wants even anticipated.

We feel it particularly incumbent on us, to acknowledge our gratitude to your Excellency, for kindly continuing to us the issue of rations, after

* ERF—in the Plural Erven—are small lots of land for building and gardens.

the total failure, by blight, of all our crops ; thereby assuring to us a subsistence, until our endeavours, by the blessings of Providence, may procure us such necessities, as may render our situation easy and independent.

In conclusion, we are cheered and encouraged by feeling and knowing, that in transplanting ourselves to the shores of Southern Africa, we have not been removed beyond the fostering influence and protection of His Majesty's paternal care and Government ; and we hope your Excellency will be pleased to convey these, our sentiments, most dutifully to our Sovereign.

(Signed)

D. CAMPBELL	W. SHAW
GEO. PIGOT	GEO. SOUTHEY
ALEX. BIGGAR	W. WAIT
GEO. DYASON	W. HOLDER
D. P. FRANCIS	D. O'FLINN, M.D.
JOHN SMITH	GEO. WATSON
HENRY LLOYD	THO. HEUSON
W. BOARDMAN	G. ANDERSON
CHARLES HYMAN	T. MAHONY
EDW. FORD	SAM. BENNET
SAM. JAMES	GEORGE SMITH
ARTHUR BARKER	JOS. RHODES, (<i>Cock's Party.</i>)
W. GRIFFITHS	JOHN JARMAN
ALEX. BISSET	J. CENTLIVRES CHASE
J. H. GREATHEAD	PETER CAMPBELL
THO. PHILLIPS	S. H. BRADSHAW
MILES BOWKER	C. J. THORNHILL
J. RICHARDSON	JOHN BAILIE
W. CURRIE	ISAAC DYASON

Letter from CYPRESS MESSER to MR. JONES, Cape Town.

GENERAL CAMPBELL'S LOCATION,
ALBANY, Jan. 28, 1821.

SIR,—I received your letter sent by the *Mary* yesterday. I have sent a letter to Mr. Lucas in Castle-street—I desired him to inform you of what I had said to him—I like this part of the country very much—it is very pleasant, and capital land, and all things seem to thrive well ; it is like a gentleman's garden, decorated with clumps of all sorts of flowering shrubs, as if they had been regularly planted,* and all parts covered with the finest grass, as high as your middle. I never saw in England so much good land together: I have nearly an acre of turnips, which is doing well. My vines are nearly all dead—I shall want five or six thousand next season, as I intend to plant a large vineyard, and some fig, orange, and lemon trees. I have plenty of melons, cucumbers, and pumpkins, which are coming forward very fast. I

* This is not at all too poetical—the whole face of the country for several days' journey together often has the appearance of the most beautiful parts of the finest parks in England.—R. S. D.

have three huts complete, and a well that I sunk at the top of the garden, which has plenty of excellent water. I have felled sufficient timber to build General Campbell's house, and the men are digging stones for the walls. I have made a large kraal for cattle ; all that have seen it, say there is not its equal in the Colony. I am sorry our parties are not come ; I think they would have been well satisfied. Here is nothing wanted but a good stock of cattle and industry. I wish I had four or five hundred heads of cattle, a few quarters of corn, and sufficient rations for one year ; I would be better off than with £5000 sterling in England. I have set fire to more than 500 acres of grass, to burn it off the land for the young to spring up. I see nothing of the wild tribe but monkeys, and a few spring bucks. Near our location we have a wood, I suppose two miles in length, where I fell the timber. I have been in all parts of the wood, but have not seen any snakes. About four miles off, in a wood which I pass through on my way to Bathurst, are elephants, buffaloes, and many other different sorts of animals. I have not as yet met with any curiosities, having been very busy. I believe I have made more progress than most of the Settlers. When any more Settlers come out for me I intend to form a town at the " Riet-fountain River," as that is a suitable place, and the General will be a good distance from other inhabitants, as it was his desire, and will have a very pleasant place close to a wood, where I can with little trouble cut avenues for him and his family to walk in the shade all day, and will have the river running nearly all round his house. My men have turned out as bad as I expected—they do not earn 8*d.* each per day—they are too lazy to work. They go to the magistrate at Bathurst, eleven miles distant from here, who gives them encouragement, which causes me to go out of my employ almost every week as well as they. They have already lost fifty-one days at that fun ; they are in hopes of getting off next week, as they have been offered two Rixdollars per day. They are getting on very fast with the Magistrate's House at Bathurst. I will be obliged to you to ask Captain Chissel for what strawberry roots he can spare, and send them by the first conveyance. If Mr. Bowie is not yet gone, he will have the goodness to bring them for me ; and if he would likewise be so good as to bring a bushel or two of seed potatoes, for which I will pay him. Please tell Rock to send me five or six thousand vine cuttings, with a dozen of figs in sorts, and two dozen of orange and lemon trees. Yours, &c.

(Signed) CYPRESS MESSER.

These pleasing hopes continued in force, as will be seen by the following, which was published in the English newspapers in May, 1822, from which I extract it. It will be observed that it was dated Dec. 3, 1821, that is, two days after Lord Charles Somerset landed, and at the very moment when he was planning, nay, had already begun the work of destruction, which was so soon to sweep away all the towns, villages, and establishments, of which the writer speaks, and with them all the future hopes and actual prosperity on which this Settler

so fondly dwells. At the moment of Lord Charles Somerset's landing, I was looking with great anxiety for news from the Kowie about the *Elizabeth*, but the first intelligence I had of her success, was just after my arrival in England, from the newspapers, where I read the following :—

CAPE OF GOOD HOPE.

The following is the copy of a letter from Hope, near Bathurst, Cape of Good Hope, dated Dec. 3, 1821 :—

The opening for commerce is now better than ever for that part of the country. The problem of the anchorage off the Kowie River, and the entrance over the bar, were solved by the *Elizabeth* schooner. She left Algoa Bay with a freight principally for Government, anchored off the Kowie on the evening of the 8th of November, rode safe and easy through the night, although it blew fresh, and the next day weighed anchor at half tide, and came over the bar with her foretop-gallant-sail set, without shipping a single spray. She discharged her cargo, and careened alongside the shore as at a wharf. There is a vessel of fifty tons register, which has been built at Cape Town, for the purpose of coasting from thence into the Kowie and back. Whenever it may please the Almighty to cause us to have good crops, we shall be sure of sending our surplus, particularly of butter, cheese, bacon, hams, salt beef, and leather, to Cape Town, and to the Mauritius. Pigs, that were very scarce indeed amongst us, when we first arrived, begin now to be pretty plentiful. The change effected in the appearance of the country, since the arrival of the first settlers in April, 1820, is wonderful. Algoa Bay, the town of Port Elizabeth, where there were only two houses, boasts now of thirty and upwards. Graham's Town consisted then of twenty-two houses, now of sixty and upwards ; fifty more building lots are granted and measured out, and must be built upon within the twelvemonth, or forfeited. Bathurst has sprung from the wilderness completely, and contains, built or building, between forty and fifty houses, besides handsome barracks. Upwards of seventy building lots, in all, have been granted or sold, and must consequently be shortly built upon. Another town is now forming on the right bank of the Kowie, not far from the mouth, which will increase in ratio with the navigation of that river, and the trade carried on.—Fredericksburg, across the Fish River, was only founded in June, 1821, and contains already twenty-six houses built, besides the barracks, and nearly as many more building. All the towns which I have now mentioned have been founded under the authority of Government. Besides these, there are a number of very decent villages, built by the different parties of Settlers. The Court of Circuit sat at Bathurst in October, and the Dutch code of laws, and manner of administering justice, so much deprecated by the Settlers, and for which they so much wished to substitute Trial by Jury, and God knows what, was universally pronounced to be strictly in equity, and devoid of all quibble ; and if it had a fault, it was too lenient. I am sorry to say rice and flour are at a most ruinous price :

retail—rice 6*d.* per lb. ; coarse flour (that is, with all the bran in it) 6*d.* ; fine flour, 9*d.* and 10*d.* ; potatoes (what few are ever brought to market) are ten to twelve and fourteen Rixdollars the sack.

The next is my letter to the Landdrost of Albany, Major Jones, concerning the Kaffer Fair, with the Proclamation referred to in that letter.

To MAJOR JONES, Landdrost and Commandant on the Frontier.

GOVERNMENT HOUSE, *July 20, 1821.*

SIR,—I am to call your attention to the Proclamation which will appear in the Cape Gazette of to-morrow, regulating a Fair to be held on the Keiskamma, for the purpose of establishing and carrying on a closer intercourse with the Kaffers, and supplying their wants, as well as of creating a regular system of barter with that people ; and you will be pleased in your capacity of Commandant on the Frontier to give every military aid, and make the necessary arrangements in regard to the troops under your orders, for giving full effect to that Proclamation, and the several objects to which it points.

I have in a particular manner to warn you to take the strictest precautions against any surprise from the Kaffers. One essential measure will at once suggest itself to you, that of causing the whole of the troops quartered in the fortified barrack near the spot where the Fair will be held, to remain closely within their walls during the whole time of the Fair, keeping their gates locked, and being themselves constantly on the alert.

You will take as a personal escort for yourself, or the Magistrate you may send, as well as for enforcing the general Civil Police of the Fair, (which of course, as Chief Civil Magistrate on the Frontier, you will regulate in a proper and efficient manner,) such a number of additional troops with you as you may require, from Graham's Town, or Bathurst, or from some of the neighbouring posts.

The greatest care must be taken to prevent the troops from carrying spirits or wine with them in any quantity, which shall enable them to intoxicate the Kaffers or themselves. I need not dwell on the fatal effects which probably would result from drunkenness at such a place and time.

There are a number of minor details, both civil and military, which must be left to your discretion and judgment ; the general principle and object of which will be to inspire confidence in the Kaffers, to administer regularly, and without inconvenience, to their wants, and thus gradually to lead to the civilization of that barbarous race, and by consequence to the security of the frontier provinces of this Colony.

Your personal attendance at the Fair whenever practicable, is of course very desirable ; but on this, the first occasion, it is indispensable. I have &c.

(Signed) R. S. DONKIN.

See Proclamation by Sir Rufane Donkin of 20th July 1821. Volume XIV, page 56.

Connected with the above measures was the following, as noticed in the Cape Gazette of June 30, 1821.

His Excellency, the acting Governor, left Graham's Town for Graaff Reynet, on Friday, the 15th instant.

Previous to his Excellency's departure from Graham's Town, arrangements had been made for a new Settlement, on the banks of the River Beka, between the Great Fish and Keiskamma Rivers ;—the Settlers to be located on this spot consist of officers and men of the late Royal African corps, who are to obtain grants, under particular regulations, suitable to so advanced and exposed a situation ;—they will, of course, be provided with arms and ammunition ; and, from their strength and position, will contribute to cover from wandering Kaffers all the locations between the Kaffer Drift Post and the sea.

The new Settlement will, at first, contain 120 persons ; and his Excellency has directed the Town they are about to found, in this advanced part of the District of Albany, to be called *Fredericksburg*, in honour of his Royal Highness the DUKE OF YORK AND ALBANY.

Before I quit the subject of the Settlers and the frontier, I will add two extracts, from two memorials addressed to me from two parties of Settlers, (I had many more, but they are mislaid,) which I adduce as farther proofs of the loyalty and gratitude of these poor people.

Extract from a Memorial from certain Settlers, who left England under the Superintendence of Messrs. Morgan, Leversage, Purvey, and Howard, to his Excellency MAJOR-GENERAL SIR RUFANE SHAW DONKIN, K.C.B., acting Governor and Commander-in-Chief of his Majesty's Forces at the Cape of Good Hope, &c., &c. dated Salem Hill, near Graham's Town, October 14, 1821.

That your Excellency's Memorialists are perfectly satisfied with their respective locations, the climate of the country, and its general appearance ; and they will ever feel the most genuine gratitude to his Majesty's Government, for the kind and liberal provision which was made for them during their voyage to this Colony, and since their arrival.

Signed by twenty-eight individuals.

Extract from a Memorial from certain Settlers in Mr. Sephton's party, actually resident on their location. To his Excellency MAJOR-GENERAL SIR RUFANE SHAW DONKIN, K.C.B. acting Governor and Commander-in-Chief of his Majesty's Forces at the Cape of Good Hope, &c. &c. &c.

On the contrary, they beg leave to express their gratitude for the noble generosity displayed by his Majesty's Government towards them, since the

time of their leaving the shores of Britain ; and in particular for all the condescending personal exertions of your Excellency in behalf of the Settlers generally, for all which your Memorialists, as in duty bound, will ever pray.

Signed by forty-three individuals.

The great and unexpected length to which this paper has gone, and the weariness I feel after five days' application to so ungracious a subject, oblige me to leave off and to reject several important and curious pieces of information, conveyed by Mr. D'Escury to his Majesty's Commissioners, and which he tells me had well nigh involved him in serious difficulties ; but he seems to have escaped at the end of a very long and arduous examination, (a great deal of it in the presence of one of the Governor's aides-de-camp, on which he remonstrated,) with an admonition to be more cautious in future. I have omitted also a number of other documents which I had laid out for insertion in this publication.

I will, therefore, only add some extracts from letters from myself to several friends and others, written at different times and under different circumstances, since I came to England, but all, I trust and believe, consistent and steady to one leading declaration, which I have made again and again—namely, that I never have been—and that I am not now actuated by any sort of feeling of hostility or personal acrimony in any thing I have ever before said or written, or in what I am now writing on the subject of the Governor of the Cape of Good Hope. I have always viewed him in his office, and as an abstraction—the individual person has never been present to my mind—*feelings I have on the subject—and I have avowed them openly*—but, they are not feelings of personal hostility, nor in the remotest degree akin to it. They are such as I think will now be shared with me by all the people of England.

The first I shall cite is dated June 18, 1825, and was addressed to a friend of mine, merely because he was a member of the House of Commons, but who has never in any way concerned himself about my views of Cape affairs ; nor did he give me even permission—much less encouragement to address him on the occasion.

To —————, Esq., M.P.

PARK STREET, *June* 18, 1825.

MY DEAR SIR,—I was both surprised and concerned to see it stated in the papers, that Mr. ————, had said in the House of Commons, that “feelings of hostility existed between Lord ———— and me.” With what sentiments Lord ———— may be actuated towards me, I neither know nor care ; but I most distinctly disclaim anything and every thing like hostility on my part towards him.

I know nothing of Lord Charles Somerset personally. The only points of contact between us, have been in our mutually relieving each other in the Government of the Cape of Good Hope ; beyond this, we are strangers to each other. My feelings, therefore, towards him, whatever they may be, can have no origin but in public grounds ; and can have no character but what springs from these grounds.

Having stated thus much, I have no hesitation in declaring to you, what I would have declared in my place, had I succeeded in my endeavours to obtain a seat in the House of Commons this session, that I most entirely disapprove, on *public* grounds, of the whole of Lord Charles Somerset’s conduct as Governor of the Cape of Good Hope, both in its general character, and in all its details, and I am firmly convinced that it has been most ruinous to that Colony.

In the welfare of that Colony I take a deep interest, not more from my having held the Government for two years, and from gratitude to the Colonists for their attachment to me, than from the precepts and example of Earl Bathurst, who, as Secretary of State, taught me in his despatches, and, by the tenor of all his instructions, that the welfare of the Colony was to be *first* and *last* in my mind. . . . But, at the same time, when this disclaimer shall be made on my part of any such unworthy feeling as personal hostility, (foreign as it is to my whole character and principles,) I must desire that it may be coupled with a distinct declaration in my name of my unqualified disapprobation of all Lord Charles Somerset’s measures, in general and in detail. . . .

Pray, believe, my dear Sir, with much regard, &c.

(Signed) R. S. DONKIN.

My next extracts are from letters to the Honourable Member himself, who, according to the newspapers, had in his place accused me of entertaining an hostile, or, as he explained afterwards to me, “an acrimonious feeling” towards Lord Charles Somerset, an accusation made, I am sure, by that Honourable Member, without the slightest intention of hurting me ; but, as it was of importance to me that such an impression should not exist, particularly in that quarter, I addressed him as follows :

3, PARK STREET, June 23, 1825.

(Private.)

To ———— Esq. M.P.

MY DEAR SIR,—I was favoured with your letter of the 20th, only on my return from Salisbury.

I lose no time in assuring you that the last thing I would be guilty of would be a want of courtesy or consideration towards you, from whom I have at all times received so much politeness and attention ; but, in fact, my object was to obtain in the same place, and in the same public manner in which your observation was *stated* to be made, an entire disclaimer on my part of any thing like a hostile or “acrimonious” feeling towards Lord Charles Somerset ; and I must entreat you to do me justice, at least in your own mind, on that point. I have closely analysed myself on this subject, and I will assert with the most entire unreserve that if I could detect within me any thing of such a miserable feeling, I should despise myself, and feel unworthy of that consideration with which you have all along honoured me.

Having disclaimed *one* feeling, it, however, becomes me to avow those I do entertain.

In my letter to Mr. ———, of which I sent you a copy, I have stated my entire disapprobation on *public grounds*, of all Lord Charles Somerset’s conduct as Governor of the Cape of Good Hope, both in its general character and in its details ; and this disapprobation of mine arises out of a strong conviction on my mind, that his administration throughout had been most ruinous to the Colony. I feel, too, an abhorrence of the system of espionage which has been established at the Cape, (to the dismay of the whole Colony,) as derogatory to our national character, and as contrary to the whole spirit and practice of His Majesty’s Government here. I deplore deeply, the wanton destruction of Bathurst and Fredericksburg ; and the total subversion of all those measures for the welfare of the new Settlers, which had received the approbation of Earl Bathurst ; with which the Settlers were well satisfied ; and for which they expressed themselves grateful. I call it a *wanton* destruction, for Lord Charles Somerset *could* have had *no sort* of authority or grounds to go on, for what he did, for, after landing with the astonishing and alarming declaration that he would undo all that had been done in his absence, he at once, on the very hour, proceeded to his work of destruction ! When I say he had no authority or grounds to go on, &c. &c.
. . . . Can I help, ought I to help sympathizing with those unhappy victims to the hand of oppression ? Can it be expected of me, that when I am speaking of these events, I can speak calmly of them ? But to turn from this scene of affliction and horror—(I say horror, for several murders by the Kaffers were the result of the new system of frontier defence ; and above thirty families were reduced at once to misery and despair)—I will look at the finances of the Colony. I left a surplus revenue of 92,101 Rixdollars at the end of 1821. The Colony is now, &c.
. . . . I again ask, can I see all this ruin and mischief, and not feel something ! and feeling, not express what I feel ? but God forbid that

I should ever so far forget myself as to admit a personal feeling into matters on that head *since* my report to Lord Bathurst, dated Cape Castle, December 1st, 1821. I refer to *that* report, whether or no there is one word in it, which breathes any thing like *personal* resentment, although it was written at a moment, when, if I had been capable of such a feeling, I should have been likely to show it, as the facts detailed in that report sufficiently prove ; but I was then, as I am now, above all personalities ; and the . . . and . . . which were exhibited to me and to the whole Colony by the individual who relieved me, were met by me only by silence, and by that feeling which in a mind like mine is very remote indeed from hostility.

It is possible that you may be disposed to tell me, in answer to this letter, that I ought to have embodied all this in charges against Lord Charles Somerset ; my answer is, as it was on a former occasion, no consideration shall ever induce me to become a *public accuser* in my individual character. I could give abundant and satisfactory reasons for this determination, but I do not think it necessary to trouble you with them ; and, I beg leave to add *that all this has been drawn from me*. I have been accused in Parliament of a feeling I disdain, and in my defence I have said what I have said *in proof*, and not in accusation.

To conclude, as I have always addressed you with the utmost frankness, although I hope also with the utmost respect, I will confess to you that had I succeeded in getting into the House of Commons this session, as I tried by every means in my power to do, I should have brought the state of the Cape, and the conduct of Lord Charles Somerset, before that House, and in doing so, I should not only have announced myself as a decided supporter of Government, but I should have undertaken to the best of my humble abilities to *prove*, by *facts*, that no part whatever of the mischiefs which have desolated the Cape for the last three years, are in any way whatever imputable to His Majesty's Government. I have &c.

(Signed) R. S. DONKIN.

The next extracts are from a letter to an old and intimate friend, dated

“ 33, PARK STREET, GROSVENOR SQUARE, *May* 11, 1826.

MY DEAR ————No friend could do another a kinder act than you have done to me ; first, by setting me right elsewhere ; and then, by telling me kindly of the erroneous opinions and statements which prevail respecting what I have said—or rather *not* said concerning the Cape.

I repeat to you what I said an hour ago, namely, that I have never in any shape or way pledged myself to bring, or said I would bring, *charges* against Lord Charles Somerset ; on the contrary, I have in very express terms declared that, as a private individual, I would do no such thing ; but I have made no secret of my firm determination to bring the state of the Cape before the House of Commons next Session, in case I succeed in obtaining a seat, of which I have every prospect.

I have a number of facts, and dates, and documents, relative to the ruined finances of that Colony, which, if I become a Member of Parliament, it will

probably be my duty to lay before the House ; but I have never given any *pledge* to do even this : I reserve the right and power of acting for myself and by myself. There are few men whose minds are more independent than mine.

The wanton destruction of the establishments in Albany will be another subject for the House to hear of if I get in, and *then* I shall in all probability leave it to the House and to the honest feeling of English gentlemen, to deal with my very stiff and stubborn facts, and dates, and documents, as they may think fit. I shall certainly never make it in any way a matter of personal feeling with myself ; for, *in fact*, I have no personal feeling in the matter, and never have had ; and you were in a slight error in supposing that I felt out of humour at certain exhibited when I was relieved in my Government of the Cape ; on the contrary, I only laughed at them *then*, as I do *now*, and I only wonder how any man who The offence, if offence there were, was against *my office*, which, I being the King's Representative, both civil and military, claimed for *itself*, but not for *me*, the highest *outward* shew of respect.

. . . . and if I had not been goaded, worried, and misrepresented in every way, ever since my return to England, I should in all probability have sunk into a comfortable state of vegetation, befitting a *Lieutenant* General, placed as we almost all are on the bench of hopeless incurables ; but, roused as I have been, and called upon to explain and vindicate *my own* official conduct—implored as I have been by the Colonists to shelter them from final ruin by representing their state, I shall feel myself bound, if I get into Parliament, *not* to disappoint *their* hopes, nor to allow people any longer to say, (as some do,) that I have expressed opinions about the Cape which I cannot support by *facts*, my array of which, I promise you, will be formidable indeed.

Farewell, in haste, ever yours,

(Signed) R. S. DONKIN.

To

The last letter I shall cite was written to a friend during my contest for Stockbridge, and was dated

“ STOCKBRIDGE, *June 9th*, 1826.

MY DEAR SIR,—As I have had more than one conversation with you about the Cape of Good Hope, and as I believe you have heard my most undisguised sentiments on the subject, I hope you will excuse my addressing you on the present occasion, when I find a new system of tactique is set on foot, the object of which is to invalidate whatever I may state in the House of Commons, by charging me with unworthy motives of personal hostility towards Lord Charles Somerset, and by imputing to me a declaration which never entered into my head, and which therefore I never could have made ; namely, “ that my *sole* object in getting into Parliament was to assail and ruin Lord Charles Somerset.”

I think I may appeal with confidence to you as to the falsehood of this

latter assertion, as far as your knowledge of my expressed sentiments goes ; and I trust you will recollect the gradations by which I have been *forced* out of the quiet life I was disposed to lead, to try to take refuge in Parliament for my own security, and to protect my own honour.

No idea of going into Parliament ever entered my head, until I found by my correspondence with the Colonial Department, that Lord Charles Somerset had not only overturned *all* my arrangements at the Cape, but that he was trying to justify his monstrous proceedings there by inculpating me ; and when, being hunted from England to Scotland, and from Scotland to Italy, with questions and cross questions, I received at Rome a *reprimand* from ————— much more severe than any thing of the sort I ever got in the army, (where, by the way, we do not mince these matters either,) I at once declared that there was no safety for me but in the House of Commons, and soon after my return to England I set about looking out for a seat, and I have never lost sight of it since.

If this be “coming into Parliament for the *sole* object of assailing and ruining Lord Charles Somerset,” I must plead guilty ; but my view of the matter is, that I am trying to get into Parliament to prevent him from injuring *me*. I avow, and have avowed this motive all along ; and if my testimony in Parliament is to be attacked because *one* of my motives, and, at one time indeed, my *only* motive, was what I have stated, I will meet that attack by throwing myself upon the House.

But, as time elapsed, every packet brought me complaints and entreaties of interference for the ruined and oppressed Settlers, and other Colonists, and, insensibly, I found myself charged by the suffering victims of Lord Charles Somerset’s misrule, with the public duty of bringing their case before Parliament ; and thus has there sprung up a *second* motive to urge me to get into the House ; and I am not ashamed of, nor do I disavow either of these motives.

As to personal hostility, I have so constantly, from the *first*, disclaimed this in all my correspondence with the Colonial Department, as well as in all my private communications, that I can add nothing to those my reiterated and unqualified disclaimers.

I never have been, I never *can* be Lord Charles Somerset’s personal enemy. It is not in the nature of things—it is impossible ; my feelings towards him indeed are strong, and I have never concealed them ; but they all originate in my abhorrence of his ruinous and oppressive system of government at the Cape, by which he has destroyed the finances of the Colony—sapped the very foundations of social order and interchange of confidence amongst individuals—and trampled under foot the unhappy Settlers, whom I was ordered to remind, that although they were far from their native land, “they were not removed beyond the sphere of His Majesty’s paternal care and protection !”

These are the feelings I have—these I have all along avowed—and these I shall carry into Parliament if I succeed in getting there.

It has been more than once hinted to me, that my stirring this affair will be construed into an attack on His Majesty’s Government.

I have always treated such an insinuation as a shameful one, and the ruin that Government ; and I am quite convinced that Ministers will, in Parliament, it is to be hoped, justify

themselves with any man who shall be *proved* to have abused the powers entrusted to him as Lord Charles Somerset has done ; and that the only support he will receive from them will be that legitimate countenance and protection to which he is entitled by his office as long as he holds it ; and of which protection I should be one of the last men to wish to deprive him.

May I beg that you will endeavour in fairness to me to let the contents of this letter be known, and pray

Believe me, my dear Sir, Yours, &c.

(Signed) R. S. DONKIN.

I have now done ! but I stand, like Aladdin with his wonderful lamp, marvelling at the thing I have conjured up ! I had no conception myself of what materials I had till I looked them over, and came to give them order and form.

The labour has been great, and the feeling accompanying it most painful on many accounts, but, "*liberavi animum meum.*"

R. S. D.

THE END.

[Original.]

Letter from MR. D. M. PERCEVAL to R. W. HAY, ESQRE.

CAPE TOWN, *April 6th* 1827.

MY DEAR SIR,—As you will probably receive by this vessel a third volume of the Minutes of Council, I take the opportunity to send you a few lines in explanation of the arrangements which have been adopted in pursuance to the observations contained in your letter to me of the 27th of May last, upon the subject of their preparation and transmission.

To ensure the greatest regularity in future, I made application lately for the Lieutenant Governor's instructions on this head, suggesting the expediency of beginning the half years for the future by the months of January and July, and of detaining, for this purpose, the residue of last year's Minutes ($\frac{1}{2}$ October, November and December) till the first half of the present year should be completed. To this I saw the less objection,

as the material part of the proceedings of those months (the Slave Tax Enquiry) had already been sent to England. An improvement upon this idea was, however, suggested by Sir Richard Plasket, viz. that the proceedings up to the 31st of December should be forthwith dispatched apart, in order that the regular series should commence with the present year. I have therefore prepared the same in a single supplementary volume, which contains both the Minutes and the Appendixes for that short period.

I have been careful to arrange these papers in the most perspicuous manner; and to authenticate the whole by certificates in form, according to your suggestion: but I was under some difficulty in deciding upon the manner in which you wished the Index to be prepared, as the forms of those in the Ceylon and Malta Books, with which Sir Richard obligingly furnished me, were dissimilar. I hope I have been right in adopting the former, as the most suited to the nature of our proceedings, as a glance over the Table of Heads in Index will shew at once the whole of the subjects which have been before the Council for the period to which the Index may refer; and by the insertion of the letters, under which any documents laid before the Board are marked in the Appendix, the reference to them, as well as to the Minutes, is rendered equally simple.

I have not been able as yet to procure a Seal of Office; nor is it very easy to fix upon the impress which it should bear: as, I believe, the Colony has *no Seal*: for the Ordinances are sealed by the arms of the Governor for the time being. I have therefore employed a similar substitute for the package which I have sent to the Lieutenant Governor for transmission, addressed to Earl Bathurst. But I really think His Majesty should be requested to grant a Coat of Arms to the Colony, for its great seal and other purposes: and the opportunity might be taken to erect it into the Principality of South Africa or some such thing, for the present name is really too absurd for the whole country. If the King of the Netherlands would allow us to quarter the Batavian Lion (which would flatter the Dutch amazingly) a very handsome and appropriate coat might be devised, of which I send you a rough sketch, which the Heralds would soon put in order for you.

We are of course very anxiously expecting the result of the proceedings in the House of Commons on Lord Charles' case, and changes which may be made in our Colonial affairs by the Commissioners' Report. I should be glad to know whether the proposed establishment of a separate Government to the Eastward is likely to be carried into effect ; as the wise men of this Hemisphere seem to doubt the practicability of so material, and therefore expensive, a change in the Colonial Administration, under existing circumstances of Finance and Jurisprudence.

But if it *should* be done, as of course there must be a Colonial Secretary there, I should like very much to accompany General Bourke in that capacity ; and I should feel particularly obliged to you, if you would propose it to Lord Bathurst, in case no better provision for me should occur to His Lordship in the interim ; for I am afraid it could not be made more than half the value of the same office here, and it must be owned that Albany is rather a *bout de monde*. Should the General not go thither, however, I do not know that I should much covet the appointment, under a stranger, in such a wilderness.

I take this opportunity to thank you for your reply to my explanation on the subject of Mr. Nichol's appointment to be my Assistant, which was a great satisfaction to me. I assure you he has plenty to do. For in addition to the regular business, all of which must be done in Duplicate, for the Office and for England, we are constantly called upon for other duplicates of very long papers for the Despatches. For example, the papers sent home with the Reports on the Slave Tax, the Corn Laws, the Import duties, and the Tea question, would alone equal in bulk an ordinary half year's Appendix to the Minutes, and all these must be copied *four* times over, first and last. May I request you to present my respectful compliments and kind remembrances to Lord and Lady Bathurst, and believe me &c.

(Signed) D. M. PERCEVAL.

[Original.]

*Report of JOHN THOMAS BIGGE, ESQRE., to EARL BATHURST
upon the Case of MR. JAN MARTIN DURR.*

CAPE TOWN, 7th April 1827.

MY LORD,—Although many of the circumstances detailed in the two memoranda which I have the honor to transmit have been submitted to your Lordship by one of my colleagues and myself in another and a more succinct form, yet as their connection with the judicial Institutions of the Colony and with the alterations which we have already had occasion to recommend has not hitherto been brought to your Lordship's notice, I have deemed it necessary to enter upon an investigation of such points as have been alleged to be the causes of obstruction to the attainment of judicial redress or which might produce a belief in the minds of the inhabitants that the sources of it were not untainted by the influences of personal or local interests.

Having found upon a perusal of Mr. Bailey's papers that he imputed much of the delay and dilapidation of which he complains to the acts of an individual who is now an inhabitant of the colony, I informed him that he must not expect that the authority of this commission could be made available for the purpose either of establishing any civil responsibility which that or any other individual might have incurred in the discharge of a Private Trust, and altho' it so happened that the person in question was a Member of the Court of Justice, yet I had no reason to doubt that when the period arrived in which it would be competent to Mr. Bailey and to the representatives of Mr. Van Reenen to call Mr. Fleck to account for the acts of waste and dilapidation to which they now impute their disappointment in the recovery of the claim adjudged to them by the Court of Appeal but pending before the Committee of the Privy Council, the legal responsibility of Mr. Fleck would be duly considered by the Court of Justice, and if established would present to him the means of future redress. I also informed Mr. Bailey that the result of any inquiry undertaken with a view to your Lordship's information or to the future improvement of the Institutions of the colony would not be

allowed, by me at least, to be converted to any purposes of a private nature, and that he must not expect any communication to be made to him in this colony upon which he could found the proceedings which he intimates an intention of instituting elsewhere.

Having considered that the importance of the circumstances stated by Mr. Bailey could be in no degree affected by the result of the discussion of Van Reenen's claims now pending before His Majesty in Council, I have not found it necessary to trouble your Lordship with the particulars of the claim, and will only observe that it related to transactions which had taken place so far back as the year 1806, and to partnership accounts of an intricate nature, the balances of which had been received and admitted from time to time by the partner who now disputes them and lays claim to a sum of Rds. 116,000 of which he alleges that his deceased partner (Veyll) had defrauded him.

The justice and amount of this claim are now submitted for the consideration and decision of the Court of last resort and the Orphan Chamber who were appointed the executors of Mrs. Durr, the Heiress of Veyll, and succeeded to that trust at her death in the year 1823, have been admitted by that Court to plead against the claim of Van Reenen, after having been referred thither by the High Court of Appeal in this Colony, where they had made an unsuccessful attempt to be heard after the pronunciation of its final sentence.

It may be necessary also to observe that after a decree of that Court had been given in the year 1823 affirming the claim of Van Reenen to its whole amount and with interest and costs, and after security had been given by him in conformity to the rules of proceeding when appeals are made to the King in Council, the Sequestrator was ordered to collect and impound the amount in the hands of the Secretary of the Court. Much difficulty has been experienced in enforcing a compliance with this decree both by the Orphan Chamber and by the Sequestrator and his Assistant, and altho' the sum collected will have to be refunded in case the decision of the Privy Council should be unfavorable to Van Reenen, yet it is much to be apprehended that if his claim be affirmed the remains of the Estate of Veyll will not be found sufficient to defray it. The sum of Rds. 86,932

has been accounted for up to this date, and as Van Reenen has given security in double the amount of his claim for restitution of all that he may receive in case the decree of the Court of Appeal in this colony is reversed, he or his securities would strictly be entitled to receive the fruits of its sentence and to call upon those who may be responsible for acts of dilapidation, waste, or extravagance, wilfully committed on the estate, to make them good, until the decision of the Privy Council is given.

The complaints which Mr. Bailey on the behalf of Van Reenen has now preferred appear to be founded upon certain acts of the Orphan Chamber, especially of the President, who, as your Lordship knows, is also President of the Court of Justice, the decisions and judicial conduct of His Excellency Lord Charles Somerset exercising the functions of Judge of the High Court of Appeal, of the Sequestrator and the Fiscal.

The responsibility of the Orphan Chamber has been acknowledged as well as their liability to answer in due form of law for their acts of administration, after the means of amicable discussion pointed out in their instructions have been exhausted. Mr. Bailey has been duly informed of this circumstance and of the particular mode in which he may avail himself of it. He has, however, stated the objections that he feels in bringing before the Court of Justice any cause of complaint against the Orphan Chamber, and in which that Board has not only shewn but declared themselves strongly disposed to resist and defeat his claim.

This objection has already been submitted to your Lordship in a report upon the Judicial Establishments of the Colony, and some of the circumstances which I proceed to explain will be found to afford a confirmation of it.

The first questions in point of date are connected with the administration of the estate of the late J. Veyll by the Orphan Chamber in whose hands it was placed by a decree of the Court of Appeal (reversing one of the Court of Justice) until the right to administer, which depended upon the validity of a last will and codicil made by the deceased a few days before his death, should be decided. This Act of the Court of Appeal is incorrectly described by Mr. Bailey as an "Interference," for it was nothing more than the ordinary exercise of its appellate

jurisdiction upon the memorial of a party stating himself to be aggrieved by a decision of the Court of Justice. The estate was delivered over to the Orphan Chamber under Inventory on the 20th June 1817, and amongst the various debts due to the estate and which it was their duty to recover was one of Sir John Truter, the President, amounting to the sum of Rds. 4,025 for meat delivered to him by Veyll between the years 1810 and 1816. The attention of Mr. Bailey having been drawn to a marginal note of the word "Voldaan" or "received" which had been made in the original inventory of the debts and afterwards to the words "paid under certain reservations" which were noted against the same debt in the account of administration by the Orphan Chamber, and having accidentally heard that the debt had been allowed to remain unpaid in the hands of Sir John Truter upon payment of Interest, I considered that an inquiry into these allegations was equally due to Sir John Truter and to the Members of the Orphan Board.

An early explanation was afforded me by the former, which was fully confirmed by the evidence of some of the Officers of the Establishment and by an examination of the books of the secretary, from which it appeared that the estate of the late Veyll was credited with the amount of Sir John Truter's debt on the 9th July 1818 in consequence of a transfer to the Chamber of a Mortgage bond executed in his favor by a Person named Steytler and secured upon an allotment and buildings near Cape Town, which with interest due amounted to Rds. 4,126. By taking over the mortgage the Orphan Chamber became responsible for its amount to the estate, and they have been enabled to defray such payments as they were called upon to make in cash by recourse to the "Private Fund," the nature of which has I trust been so fully explained to your Lordship in a preceding report as to render a repetition unnecessary in this place. The ambiguity of the marginal note alluded to by Mr. Bailey is removed by the explanation of the bookkeeper of the Orphan Chamber and by the production of an original receipt which he gave to Sir John Truter, and in which a right was reserved to him for the reimbursement of any Items of the account which he might afterwards prove to have been paid. It appears from the resolution of the Board of Orphan

Masters that an application had been made by their President for this accommodation, and that it had been granted. The premises upon which the debt was secured are sufficient in value, and the interest continues to be regularly paid. These explanations therefore satisfactorily repel the presumption that had arisen of the debt being still unpaid, and although the entry of it to the credit of an account subsequently adjusted might have been a sufficient answer to Mr. Bailey's suspicions, yet the resort that has been made in this instance to the Private Fund of the Orphan Chamber for aiding the discharge of the private debts of the most influential of its members proves the necessity of providing some new check upon the application of the Fund and upon the tendency to abuse which the secrecy of their proceedings must encourage.

The next item in the administration of the Orphan Chamber to which Mr. Bailey objects is the payment of the sum of 3,000 rixdollars to Captain Underwood for the covering of 60 mares belonging to the estate of the late Veyll by a stallion of His Excellency Lord Charles Somerset. I will first consider the objection as it relates to the Orphan Chamber in its capacity of Administrator of a litigious property after legal notice of the very large claim of Van Reenen which was then before the Arbitrators, to whom it had been referred previous to Veyll's death. The property of which this individual was possessed consisted of houses in Cape Town, Slaves, Land and Stock, Bonds and Book debts. Although the right of J. M. Durr to the inheritance had been negatived by a decision of the Court of Justice, and was under discussion in the Court of Appeals, and although Durr himself was an uncertificated bankrupt, he had been permitted by the Orphan Chamber to remain in the possession of the property, the rents and profits of which were received by the Chamber who allowed a sum equal to 6,000 rixdollars per annum for the maintenance of Durr and his family. A large part of the stock consisted of mares, which were kept upon one of the Government Farms near Cape Town, and of which Veyll had obtained a long lease previous to his death and at a high rent. At the period above-mentioned an application was made to the Secretary of the Board of Orphan Masters by Mr. Poggenpoel, (who was at this time a clerk in the same department and a friend of J. M. Durr,

and as it has appeared in another case agent to His Excellency Lord Charles Somerset in the disposal of his horses), for the appropriation of the sum of 3,000 rixdollars out of the Estate of Veyll for the use of a stallion belonging to his Lordship named Cricketer in covering sixty mares. I must beg leave to refer Your Lordship to the evidence of Mr. Poggenpoel for an explanation of the manner in which this negotiation between himself and the late Secretary of the Orphan Chamber was conducted. As the ordinary meetings of the Board take place only once a fortnight, and as expedition was desirable, the application of Mr. Poggenpoel, accompanied by a consent in writing of Lord Charles Somerset to the use of the horse "Cricketer" was sent round to each member, who it appears signified their concurrence. It is stated in the resolution that the Secretary having deemed it necessary to take the consent of Messrs. De Wet and Scheuble, the executors named in one of the disputed wills, summoned those gentlemen to declare whether they objected to the proposal, and that upon appearing they gave their consent. This circumstance has been recently denied by Mr. De Wet, one of the executors, and although the death of the other, and of the person who filled the office of secretary to the Orphan Chamber in the year 1817, precludes any direct conclusion upon the subject, yet it may be reasonably presumed that the resolution has correctly stated the course which was pursued at the time, although the part ascribed in it to Mr. De Wet may have escaped his recollection.

The price agreed upon for the covering of each mare was 50 rixdollars, one half of that which was demanded at the time by other owners of good stallions, but equal to the price charged by the Government Farm at Groote Post, to which that of the late J. Veyll was contiguous. As the Orphan Chamber had taken the precaution to secure the concurrence of the parties interested in the estates, out of which the expenditure of this considerable sum was to be drawn, it would be too much to conclude, at this distance of time, that it was of a nature too speculative to have received their sanction. Without adopting the sanguine calculation of Mr. Poggenpoel, at whose particular instance the Orphan Chamber was first moved to compliance, there is no doubt that at the period in question great profits were anticipated by several

inhabitants of the colony in the improvement of the breed of horses, and if a sale of Veyll's numerous mares was contemplated at the time and had taken place in the year 1818, some portion of the expected profit might have been realized. The Orphan Chamber at the same time would have done well to consider whether Durr was a person to whose judgment or care such a speculative advance of money ought to be trusted, and they might also have recollected that a deference to his wishes, conveyed to them through the officious interference of one of their own clerks, was not the safest guide to them in the administration of so large a property. It is stated by one of the members that the mode adopted in this case of taking the opinions of the Board upon the expenditure of large sums of money under their charge was unusual, and considering the quarter from whence the proposal came a greater degree of deliberation would not improperly have been bestowed upon a subject of which the party applying was so ill informed as to have rendered a second application necessary after the lapse of more than five weeks from the date of the first.

The conduct of the Orphan Chamber at a subsequent stage of the process has been adverted to by Mr. Bailey. After a long course of expensive and dilatory proceeding, Mrs. Durr, the heiress of Veyll, died, leaving a will in which she declared the Orphan Chamber her executors, and in a few days subsequent to this event a decree of the Court of Appeals was given in the long contested cause of Van Reenen versus Durr, condemning the latter as heir and executor of Veyll to pay to Van Reenen the sum of Rds. 116,454 with interest at six per cent from the 1st July 1810, reversing a decree of the Court of Justice given on the 5th September 1822 by which the claim of Van Reenen had been dismissed with costs.

The property of which the estate of Veyll had consisted had been delivered up to Durr some time in the year 1819, and that which remained in his hands of the Orphan Chamber administering the estate of the late Mrs. Durr according to the provisions of her will. Durr applied to the Orphan Chamber to join him in an Appeal to the King in Council against the decree of the 11th September 1823 "to which" they state that, "they readily consented, as the merits of the case were known to the Board, *and in particular to the President, and*

their opinion being greatly strengthened by the favorable decision which the case had obtained for Durr in the first instance."

Although I am far from condemning the resolution here taken by the Board in appealing to the last resort upon the merits of a claim, which, without any disrespect to the Court which has pronounced upon it or to that which is about to pronounce upon it, may be regarded as doubtful, I would only beg leave to refer to the passage above quoted as a proof of the influence which is sometimes transferred from the Court of Justice to the Orphan Chamber, and to which may be fairly attributed a portion of that obstruction of which Mr. Bailey has complained. In support of this position I would respectfully beg leave to refer your Lordship to a letter that was addressed to my Colleague and myself by the President and Members of the Orphan Chamber, which is to be found in the Appendix, in explanation of a passage in a memorial of the Board filed in the proceedings of *Van Reenen versus Durr* now before the Privy Council, in which a Decree of the High Court of Appeal given in that cause was declared to have been "surreptitiously" obtained, and a term was prayed to give them an opportunity of proving it. It seems that the decree was rescinded by the Court of Appeal, but I am not aware that the expressions which the Board have since stated to have been used by them only in a technical sense, and signifying that the Court had been surprised into an injurious decree, have been expunged from the proceedings.

It will not be necessary for me to particularize the several decrees and memorials of the Court of Appeal and Orphan Chamber which now so quickly followed each other. The former contained reiterated orders for payment of the claim of Van Reenen out of the estate of Durr, which were resisted by the Orphan Chamber as being contrary to an article of their Instructions, by which, out of regard to the reputation of a deceased person whose estate they are administering, they are enjoined to withhold the transfer of it to the Sequestrator until its insolvency shall distinctly appear. Instead of complying with the decrees of the High Court of Appeal, the Orphan Chamber proceeded to advertise the estates of Durr for sale, and gave notice to his creditors to prefer their claims, taking upon themselves the responsibility of paying certain

debts of the deceased Mrs. Durr which they considered to be privileged, to the prejudice however of the large claims of Van Reenen upon the Estate of Veyll which had devolved to her. The sum of sixteen thousand rixdollars was at last paid to Van Reenen out of the property deposited in the Discount Bank, and the Sequestrator, having again been ordered to execute the sentence of the Court of Appeals, considered himself bound by his instructions to communicate the state of the property to the creditors of Durr, who brought forward their claims, some of which arose out of mortgages given by Durr upon property of Veyll. The Fiscal (Mr. Denyssen) as a creditor of Durr attended one of these meetings, and delivered his opinion upon the liability of that property to pay such of the debts of Durr as were of privilege, and secured as his was by Bond in preference to the Debt of Van Reenen which was only a partnership account. In addition to this the Fiscal, after an ineffectual attempt made in concurrence with the other creditors of Durr to be admitted in appeal in the case of Van Reenen versus Durr, and to oppose the execution of the sentence of the High Court, addressed himself by private letter to Lord Charles Somerset, the Judge, representing to his Lordship the technical error which according to his opinion had been made in the proceedings of Van Reenen, by which the separate liability of Veyll's estate and that of Durr's had been confounded, and in consequence of which the Fiscal contended that the creditors of the one had become the creditors of the other, and were entitled to assert such privilege against both as the nature of their several Debts might be found to give. The gentleman who succeeded to the office of Sequestrator in the year 1825 fully adopted the sentiments of the Fiscal, and menaced on the one side by the mortgage and other creditors of Durr hesitated to carry into effect the decree of the Court of Appeals dated 18th September 1823.

Upon the appointment of a Joint Sequestrator for the purpose of bringing up the numerous cases that had fallen into arrear in that office, and of which this case of Van Reenen *versus* Durr was one, it happened that one of the members of the Orphan Chamber was selected. At length and after a lapse of four years a partial compliance with the before-mentioned decree has been obtained, and the sum of Rds.

86,932 out of Rds. 116,454 and interest thereon from the year 1810, has been paid or accounted for to the Secretary and Registrar of the Court of Appeals on behalf of Van Reenen.

In referring to the documents explanatory of the conduct of the several Individuals concerned in these transactions, it would appear, first that the Orphan Chamber has been impressed with a belief that the claim of Van Reenen against Veyll was unfounded, and that even if it were otherwise the estate out of which it was to be paid had ceased to exist, or had been allowed by Van Reenen to be so mixed and confounded with the estate of Durr that its separate liabilities could no longer be fixed or ascertained. With regard to the Orphan Chamber it must be observed that their official acquaintance with the claim of Van Reenen had commenced as early as the year 1817, when upon his application the amount had been inventoried in their books against Veyll's estate. They delivered up the latter to Durr in the year 1818 by order of the Court of Appeals, and although the official knowledge of the estate which the Orphan Chamber might obtain through the medium of their President may not be considered as binding upon the members, yet it might have been stated to them by him upon receiving again into their charge the same property under a different title that, as late as the year 1822, an interdiction at the suit of Van Reenen had been issued by the Court of Appeal against the further alienation of it with leave to apply to the Court of Justice for the sale of such portions as were liable to deterioration or loss. The litigation also by which the claim of Van Reenen had been so obstinately met after it was dismissed from the Court of Appeal by its decree of the 28th December 1818 had chiefly taken place in the Court of Justice, and the Orphan Chamber might also have been informed by the same high authority that the Court, which had admitted the claim of Van Reenen to a reversion of his partnership accounts with Veyll at no distant period of time and after those accounts had been submitted to the deliberate examination of the two most competent accomptants in the colony who found that Veyll was indebted to Van Reenen in the sum of Rds. 116,454, had absolved the heir of the former from all claim whatever.

Another point seems also to have been studiously kept out of view by the Orphan Chamber as well as by the Fiscal and the Sequestrator, namely the legal liability of the property which devolved upon Durr as heir of Veyll *virtute uxoris* for the payment of a debt incurred by Veyll and referred to arbitration in his lifetime.

Upon the authority of Van Leeuwen, a Dutch civilian of celebrity, confirmed by that of others "the right of a deceased person is in every point transmitted to his heir, and this is to be understood not only of the fruits and advantages of the estate and of the rights which the deceased had against others, but also in all the rights which *others had upon and against the deceased*, so that it binds and obliges him with respect to all the charges and debts of the estate which the creditors of the estate may demand of him although the estate may be insufficient and indebted more than it amounts to."

The mere technical objection made by the Fiscal of Durr's not being charged as the executor of Veyll, in tribunals where no strictness of pleading is required, cannot be entitled to any consideration. Durr was invested with both characters by the will of Veyll and by the operation of law, and had answered in both characters.

Another objection made and frequently repeated in the proceedings, that Veyll's estate had ceased to exist when Van Reenen asserted his claim against it is not more deserving of weight. If there is any authority in the opinion just quoted from Van Leeuwen, the estate of Veyll became the estate of Durr *virtute uxoris*, as soon as that right was established by the renunciation by the executors of the first will of their Appeal to the King in Council against the validity of the second will which they had disputed, and with that right of heirship to the estate descended the liability to the debts of Veyll, comprehending those which were due as well as those which might be found to be so.

Allowing to the Orphan Chamber the full right of disputing before the Privy Council the validity of Van Reenen's claim against Durr and his children, whom they represented by virtue of the will of Mrs. Durr, I humbly conceive that they outstepped the bounds of their duty when they refused compliance with the decrees of the High Court of Appeal. The

liability of the estate under their charge to the payment of the claim which that Court had solemnly pronounced to be valid was undeniable, and it was neither decorous nor consistent with the respect which they professed for the highest Court of Judicature in the Colony to justify their disobedience of its decrees by adopting the opinion of their President. This is one of the inconveniences arising out of the combination of the two situations of the President of the Orphan Chamber and of the Court of Justice, which it has been the endeavour of my colleagues and myself to explain to your Lordship in another place.

It may be fairly presumed that the influence of this example was the motive which induced the Sequestrator to delay a compliance with the decrees of the Court of Appeal, and it was not until a direct denunciation of the peril which would attend further resistance, given under the opinion of the learned assessor of the Court in January 1827, that the final decree of the 18th September 1823 in the cause of Van Reenen *versus* Durr received a partial compliance. Mr. Bailey has observed upon this intrusion of the Fiscal's opinion upon Lord Charles Somerset as Judge of the High Court of Appeal, and has expressed some conjectures of the nature of the claim by virtue of which the former became a creditor of Durr. I concurred with my colleagues in opinion that we had no right to question or to examine the last of these points, but having requested an explanation of the former from Mr. Denyssen it was readily afforded us, and it is to be found in the Appendix. The doubts which he has there expressed of the legality of certain decrees of the Court of Appeal combined with the injury which they were likely to cause to his rights as a creditor of Durr were the motives by which he was led to address Lord Charles Somerset on this occasion. He derived no right to do so from his public situation as Fiscal, and his right as creditor might have been as forcibly and as impressively stated by appearing in conjunction with other creditors of Durr, who in consequence of a notice from the sequestrator had apprehended the same injurious consequences to themselves. Any arguments which he had thus addressed to the Judge of the High Court would have met with the consideration that was due to him as one of a body of creditors, and as the Fiscal had no right to appear

in any other character before the Court of Appeal in that cause, a sense of what was due to the feelings and situation of the Judge whom he was addressing should have prevented him from making use of the influence of his professional authority in any manner that was not equally open to the opposite party. It may perhaps be right to add that the frequency of the private appeals to Judicial authorities upon questions subject to their present or future cognizance attests the difference of feeling with which they are regarded in England and in one of its foreign Dependencies.

Mr. Bailey has complained of several acts which he attributes to Mr. Fleck, the person selected by Durr to assist him in the performance of his duties as executor of Veyll, which he alleges to have been very detrimental to the estate and in open neglect and contempt of the legal liability of Durr to the payment of Van Reenen's claim whenever it should be established. It alludes to the payment of large sums of money by Mr. Fleck for the expenses of litigation in opposing that claim, for inducing the two executors of the former will of Veyll to forego their opposition to the establishment of the second (the receipt of which sums is not denied), the payment of a large sum of money to Lord Charles Somerset for the purchase of a stallion, and which as relating to the individual responsibility of Mr. Fleck it will be competent to Mr. Bailey to question by the institution of proceedings before the Court of Justice, but cannot properly be the subject of examination or inquiry by this commission. He has however distinctly brought to my notice the Judicial conduct of His Excellency Lord Charles Somerset as Judge of the High Court of Appeal in the cause of Van Reenen *versus* Durr, as displayed in certain decrees made by his Lordship upon memorials which do not form part of the proceedings transmitted to England and now pending before the Privy Council, but which relate to the measures adopted by Van Reenen to establish his claim against the estate of Veyll in the Court of Appeal previous to the decree of that Court of the 28th December 1818 by which the question was referred to the Court of Justice.

As I have not procured copies of the memorials filed in these proceedings, it will be necessary to present to your Lordship a summary statement of the particulars of which Mr. Bailey

complains, referring as occasion may require to the several decrees which are collected in the appendix.

During the period in which the executors under the first and second will of Veyll were contending for the validity of each, and after the property had been placed under the administration of the Orphan Chamber till the point should be finally determined, Mr. Van Reenen thought proper to bring to the notice of the Court of Appeal the action of revision of account which had been instituted by him against Veyll, and which had proceeded as far as a reference to arbitrators under the authority and sanction of the Court of Justice before Veyll died, and prayed the Court of Appeal to pronounce that the Arbitrators might proceed to give their award. This memorial is dated 19th March 1818, but it professes only to be a true translation made from the Dutch by a Sworn Translator, and is not signed by any Advocate as memorials presented to the Court of Appeals are required to be. Upon this *ex parte* statement the Court of Appeal gave a decree in which it declared "that it saw no impediment to the arbitrators proceeding to make their award."

There was not at this time any legitimate defender of the estate of Veyll, for although it was placed under the provisional administration of the Orphan Chamber, they did not consider themselves entitled to appear in *judicio*, and Durr, independent of the disputed claim to the inheritance of Veyll, was insolvent and his estate in the hands of the Sequestrator. In every respect therefore the decree of the Court of Appeal was irregular. The memorial upon which it was given ought not to have been filed, there was no person competent to represent the interest of Veyll, and the proceedings of the arbitration clearly appertained to the Jurisdiction of the Court of Justice in which it had originated. The irregularity of the decree in short was such that the arbitrators did not think themselves justified in proceeding upon it.

On the 30th May 1818, however, the Court of Appeal reversing a decree of the Court of Justice dated September 1817 decided in favor of the second will of Veyll, and declared the first will to be invalid. An appeal was entered against this decision to the Prince Regent in Council by the executor of the first will and admitted, but at the same time an order was given for

the delivery of the estate of Veyll to Durr with an injunction to him "to liquidate the same, but neither to alienate or hypothecate or in any way to encumber it, without the special leave of the Court, presenting an account every three months of the debts and monies recovered, when an order would be made authorizing the payment of such debts as might be due from the estate."

This order seems to have been given upon a due consideration of the circumstances under which the property was then placed, and the possibility of the decree of the Court of Appeal which gave the possession of it to Durr, being reversed by the decision of the Prince Regent in Council. In the month of August 1818 Van Reenen renewed his application to the Court of Appeal for the continuation of the arbitration in his cause, which was now opposed by Durr and the person whom he had chosen to act as his Executor on the ground that they were not bound to submit to an arbitration entered into by their testator Veyll and which had not been concluded before his death, quoting at the same time various authorities from the Dutch law and Writers in favour of this position. Upon these points the Court of Appeal decreed on the 15th September 1818 and declared that it could not admit Durr to assume an executor without the concurrence of the Court, directed the arbitration to proceed and assigned to the arbitrators to make their award on or before the 1st January 1819.

Against this decree Durr entered an appeal to the Prince Regent in Council, which was refused, and on the 4th November 1818 he applied for copies of the proceedings for the purpose of submitting them to the same Tribunal and prayed that in the mean time the arbitrators should be directed to suspend their proceedings. The first of these prayers was refused, but in decreeing upon an application of the executors of the first will of Veyll and a consent of Durr the Executor of the second will to abandon the appeal made by the former to the Prince Regent in Council, the Court after granting that application and remitting the cause of the disputed inheritance back to the Court of Justice to carry into effect the sentence that the Court of Appeal had pronounced on the 30th May 1818, took occasion to rescind its decree of the 15th September 1818 by which the arbitrators of the accounts between Van Reenen and the late

Veyll had been directed to proceed, adding that it was without prejudice to either party. The effect of this decree was to place J. M. Durr in the full possession of his rights as heir under the second will of the late Veyll and to leave the process of arbitration of the accounts between him and Van Reenen to the decision of the Court of First Instance in which that process had originated.

Such are the acts of Lord Charles Somerset as Judge of the High Court of Appeal which have occasioned the remarks of Mr. Bailey and to which he imputes the delay that has occurred in the recovery of the debt of Van Reenen, and the dilapidation of the estate of Veyll, out of which it may eventually have to be paid. Taking the decrees of the Court of Appeal in the order of time in which they have been noticed, I will first advert to that by which the administration of the property of Veyll was placed in the hands of the Orphan Chamber. Upon this subject it is necessary to premise that the disputes between the executors of the two wills for the administration of the property had risen to a degree of violence which can only be accounted for by the value of the prize for which those of the first will were contending, but which is well understood by individuals who have filled the situations of executors in this colony, charged as those of the first will were with the execution of a Fidei Commissarian trust of no short duration. On the other hand Durr who by right of his wife became heir under the second will was no less impatient to be put in possession of the large property which thus devolved upon him and to redeem himself from the state of insolvency in which he was found at the death of Veyll, his brother-in-law. Under these circumstances, and considering the general superintendence which the Orphan Chamber exercises over estates the heirs to which are unknown or absent, and the reasonable rates of charge to which they are subject compared to those of private executors, the appointment of the Orphan Chamber to the provisional administration, although they had been specially excluded from it by the first will of the Testator Veyll, was certainly preferable to that which had been previously made by the Court of Justice.

The next decree that was given by the High Court of Appeal was favorable to the interests of Van Reenen, for it declared

that the Court "saw no impediment to the arbitrators proceeding to make their award." Whether Van Reenen was made sensible of the irregularity of this proceeding or of the nullity of the decree itself does not appear, but an inference of that kind may be drawn the circumstance of the application having been renewed in a memorial duly signed and prepared on the 17th August 1818, after the decision of the Court of Appeal by which the second will of Veyll had been declared valid, and Durr had become heir to his property *virtute uxoris*. He there presented himself by his advocate as a legitimate opponent to the pretensions of Van Reenen, and suggesting but not positively declining the jurisdiction of the Court of Appeal in the matter, he stated his reasons for disclaiming altogether the obligatory effect of the bond of arbitration into which Veyll but not himself had entered. The Court of Appeal as it has been seen persisted in the view that it had taken of the obligatory effect of the submission of Veyll, and ordered the arbitrators to return their award on or before the 1st January following. Previous however to that day and on the 28th December the decree of September was rescinded, and all questions touching the inheritance of the late Veyll were expressly remitted to the Court of Justice. As Mr. Bailey has regarded this last decree as productive of most ruinous consequences to Van Reenen and as incapable of explanation or defence upon any sound principle, and as he asserts that it was contrary to the opinion of the legal adviser of Lord Charles Somerset in the Court of Appeal, I feel it necessary to submit to your Lordship the view which I have been enabled to take of this decree, after an attentive examination of the documents which were submitted to the Court, and which I am disposed to think do not form part of those which are to be submitted to the Privy Council in the discussion of the cause of Van Reenen and Durr.

I would first submit that the Court of Appeal possessed no jurisdiction over the process of arbitration entered into between Van Reenen and Veyll, that the action was erroneously brought there by the former in the month of March and erroneously continued by the decree of the month of September, and that what I am justified in calling a mistake of the Court of Appeal was rectified at last by the decree of the 28th December so

much complained of by Mr. Bailey. The process of arbitration originated and was yet pending in the Court of Justice or (as it may be termed for the purposes of this question) the Court of first Instance, when the Court of Appeal which possesses no functions of that nature and has often declined them expressed a sort of timid approbation of the application that was so irregularly made by Van Reenen for the assumption of them. The defect of jurisdiction was not removed when the decree of the 15th September was given, although that defect had been pointed out by the advocate of Durr, and his refusal to submit to the arbitration had been justified by numerous quotations from the Dutch Law, and which in no single instance I observe were met or even controverted by the advocate of Van Reenen whose ability and industry would not have failed to have discovered authorities if any could have been found in support of his argument.

Feeling himself aggrieved by a decree of the Court of Appeal of the 15th September 1818 which compelled him to submit to the process of arbitration and thereby deprived him of his right to agitate in a Court of first Instance a question which so materially affected the inheritance to which he had succeeded, Durr entered an appeal to the Prince Regent in Council, which although rejected on account of its interlocutory nature, was followed by the refusal of an application for copies of the proceedings. Although this refusal may have been justified by the general practice of Courts of Appeal and by a wish to abridge unnecessary delay, yet considering the magnitude of the claim which had been propounded on the part of Van Reenen and the difficulty that attended the investigation of it, Durr had some reason to complain of a proceeding by which he was forced into an arbitration which although binding upon Veyll contained no express provision that produced the same effect upon his heirs.

It is stated by Mr. Bailey on behalf of Van Reenen, and without entering into any consideration of the legal grounds which might exist for it, that the rescinding of the decree of the 15th September 1818 was contrary to the advice which Lord Charles Somerset as Judge of the High Court of Appeal received from the gentleman who then filled the situation of Secretary and Registrar of that Court, and was the cause of

the endless and expensive litigation in which Mr. Van Reenen has since been involved.

Upon the first point your Lordship has already been informed by the evidence that was transmitted some time ago. Mr. Rowles supported the opinion that he gave of the obligatory effect of the bond of arbitration of Veyll upon his heir by a reference to the authority of Lord Holt, and upon this advice the decree of the 15th September 1818 was given for continuing the process of arbitration. I have already had the honor to submit the reasons which I conceive were conclusive as well against the principle as against the effect of this decision. They were strongly stated in the various memorials submitted to the consideration of the Court of Appeal, but without success until the month of December 1818, when upon the presentation of a memorial by Durr and the executors of the first will of Veyll praying the sanction of the Court to the abandonment of the appeal respecting the validity of the second will and of all further question to the right of inheritance which Durr claimed under it, the decree of the 15th September 1818 was cancelled, and the process of arbitration referred to the Court of first Instance, as well as all discussions touching the inheritance of Veyll's estate.

It has been stated that no memorial was to be found upon which this decree for rescinding the former one could be justified, but upon examining the documents in the Court of Appeal to which I have before alluded as not forming a part of those which have been transmitted to England by the parties, I have found a long memorial of J. M. Durr filed on the 27th November 1818, from the extracts of which your Lordship will perceive that this person recapitulating the arguments against the continuation of the process of arbitration in the Court of Appeal urged a reconsideration of them on the grounds which I have already had the honor to state, and prayed that at least the ~~process~~ ^{process of} arbitration might be suspended until his application to the Prince Regent in Council to be heard in appeal might be known. In consequence of this memorial and the strong representations that were made to Lord Charles Somerset, he determined to take the opinions of persons acquainted with the Dutch Law, and in a note which he subsequently addressed to the Secretary and Registrar

of this Court, stated in explicit terms his reasons for rescinding his former decree. Your Lordship is in possession of the circumstances which have prevented us from submitting to you the precise terms in which this note was expressed, but from a passage in the memorandum of Mr. Bailey it appears that at a former period he had been acquainted with the substance of its contents, which nearly correspond with those which on a former occasion were submitted to your Lordship. As I had understood that the opinion of the Chief Justice had been given to Lord Charles Somerset upon this point, I requested him to inform me if such was the fact and also to communicate it to me, but I find from the answer of the Chief Justice that to the best of his recollection he was not consulted by his Lordship upon this subject.

After a more full and attentive consideration than I had an opportunity of giving to it upon a former occasion, I feel little difficulty in expressing my humble opinion that the rescinding of the decree of the 15th September 1818 was the correction of an error into which the Court of Appeals had fallen by too rigorously adopting the decision of a very eminent English Judge quoted by the Secretary and Registrar, in preference to the authorities of the Dutch Law. It is very possible that this act may have led to a long series of litigation, but it is on the other hand abundantly clear that the continuation of the process of arbitration in the Court of Appeal which had no jurisdiction over it would have only increased the expense and delay, and would have unjustly deprived Durr of the undoubted right which he possessed of discussing and disputing the large claim that was made upon him in a Court of First Instance.

In the course of his observations upon the Judicial conduct of Lord Charles Somerset as Judge of the High Court of Appeals, Mr. Bailey has introduced the subject of several payments made to his Lordship out of Veyll's estate, the amount and dates of which are set forth in the margin.

6 January 1818. Captain Underwood A.D.C. to His Excellency Lord C. Somerset for covering mares . . .	Rds. 3,000
24 August 1819. To His Excellency as per promissory note dated 1 September 1818 for an English stallion	7,000
11½ months' interest	402½
	<hr/>
	Rds. 10,402½

Equal in the year 1819 to £953 Sterling.

It undoubtedly appears that these payments were made during a period in which questions most materially affecting the interests of Durr were under the Judicial cognizance of Lord Charles Somerset. The payment of the sum of Rds. 3,000 for covering the mares on Veyll's estate was made at a moment in which the question of the validity of the two wills was before the Court of Appeals, and a promissory note amounting to Rds. 7,000 and carrying interest at six per cent was signed by Durr in favor of Lord Charles Somerset on the 1st September 1818 in payment of a stallion which Durr had purchased of his Lordship, accompanied with an agreement that his Lordship should have the use of the horse during the period in which his services were not required by the purchaser. After having made use of him for one season (1818) the horse was sent by Durr to his Lordship and died in the month of March following. As no objection was made to the payment of the promissory note when it became due, and as it appears that some compensation was made to Durr for his loss, it is to be considered that the terms of the agreement between Lord Charles Somerset and himself were satisfactorily adjusted, and as it appeared to me that this question related only to the individual responsibility of his Lordship I did not think myself authorized to make further inquiry into it.

The promissory note was dated on the 1st September 1818, previous to the decree by which the arbitrators were ordered to give in their award on the 1st of January following, and in the midst of discussions which involved the power of Durr over his estate I find that a memorial was filed by him in the Court of Appeal on the 2nd September praying permission to dispose by public Sale of two Estates and also of such Slaves and cattle as might not be required for the domestic use of the Memorialist, a prayer quite inconsistent with the purchase of the horse on the 1st of September and for effectuating which Durr at that moment possessed neither pecuniary means nor legal capacity, for he was not then rehabilitated. No decree was made upon this memorial, and it is stated by Durr's advocate that as the compromise of the dispute respecting the two wills, which gave to the former the entire control over the property of Veyll, was then in contemplation, it was not deemed necessary to pray for a decree. Supposing however that this compromise had not taken place and the appeal to

the Prince Regent in Council had proceeded, Durr would have been compelled to apply to Lord Charles Somerset as Judge of the High Court of Appeals for leave to fulfil the engagement into which he had entered with his Lordship in the year 1818, a state of things which in every point of view would have been prejudicial to the character and dignity of the Court in which his Lordship presided.

I do not notice another transaction which took place in the month of May 1819, consisting of an advance of Rds. 3,000 by the Aide de Camp of Lord Charles Somerset to Mr. Fleck to enable him to pay the duties to Government on the transfer of some of the landed property to Durr, because at the date abovementioned the judicial cognizance of the Court of Appeal of the causes in which Durr had any interest had ceased and had been transferred to the Court of Justice, at the same time referring to the spirit of the regulations framed in 1806 by the Commissioner De Mist for the guidance of the Members of the Court of Justice and which gave them liberty to retire from deliberation in all causes in which they stood in any particular relation towards the parties concerned "on account" (amongst other motives) "of considerable benefits received from or with or conferred on the parties, their parents and relations, or other similar reasons," it must become a subject of regret especially to those who from habit as well as national feeling are accustomed to place a high value upon the character of the judicial office, that any relation should have been contracted in the cause of Van Reenen versus Durr which could furnish a ground for questioning the purity of a decision, which, if the observations that I have had the honor to address to your Lordship possess any weight, was just in itself and conformable to the Law of the Colony.

I have been informed, and upon authority which I see no reason to question, that the transaction to which I have just alluded was not known in the colony for some time even to those who were most intimately acquainted with the parties. It is hardly necessary for me to inform your Lordship that the circumstances are now very generally known, but unfortunately unaccompanied with explanations capable of counteracting the effect of exaggerated or interested statements. I have &c.

(Signed) JOHN THOMAS BIGGE.

[Enclosures 1 to 11 in the above.]

Evidence of various Individuals given to the Commissioner of Enquiry. I do not think it can be necessary to give this, or the records of the various trials, resolutions, and minutes of the different courts, which are voluminous.—G. M. T.

[Enclosure 12 in the above.]

ORPHAN CHAMBER, *October 19th 1825.*

GENTLEMEN,—We have the honor to acknowledge the receipt of your letter of the 7th instant, and in dutiful compliance with the request contained therein, to report :

That we ex testamento entered upon the administration of the joint property of Maria Catharina Veyll deceased, and her husband Johan Martin Durr, the former having died on the 11th September 1823.

That on the 24th of the said month of September, we received notice, that on the 18th previous, The Right Honorable The Court of Appeals had pronounced sentence in a suit of J. G. van Reenen versus the aforesaid Durr N U heir to J. F. Veyll deceased, by which sentence Durr is condemned to pay to the said Van Reenen a sum of Rixdollars 116,454 33½ stivers, with the interest thereon, from the 1st July 1810.

That in consequence of the promulgation of this sentence, we immediately resolved not to effect any payments for account of the estate, other than such as under all circumstances (whether the Estate should ultimately be found solvent or insolvent) legally ought to be discharged.

That Durr considering himself aggrieved by the sentence represented to us, and called upon our Bench, as administering the joint estate of himself and his deceased wife, to appeal from the aforesaid sentence to His Majesty The King in Council.

The merits of the case being known to our Board, and in particular to our President, and our opinion being greatly strengthened by the favorable decision which the case had obtained for Durr, in the first instance, we did not hesitate a moment, for the benefit of the minor heirs in the estate to combine with Durr, in order to be admitted ex officio Joint

Appellants, and with that view we caused a joint memorial to be presented to the Right Honorable The Court of Appeals. However in reply to this memorial we received an order rejecting our prayer, while at the same time a second order was issued by which Durr was permitted to proceed in appeal, provided he produced the security required by Law, a condition which he obviously found very difficult to comply with, since the whole of the property in which he had any interest had been surrendered to the Orphan Chamber, and since the latter as superintending the interests of that property were secluded, and therefore reduced to the necessity of not interfering any further with the appeal before a decision could be obtained on a memorial presented by the Board to His Majesty The King in Council, praying to be admitted in appeal, for the benefit of the minor children of Maria Catharina Veyll deceased.

In the meanwhile the sentence of the Court of Appeals was lodged for execution, and the sequestrator pursuant to custom, caused the sentence to be registered in our office, as a claim on the estate of the said Durr. As a consequence of this registry, the estate, according to the clear letter of our instructions, ought, without any further interposition of a Court of Law, to remain under the administration of our Board, until its solvent or insolvent condition could be ascertained, in order, in the first case, to enable the Board to deposit the amount of the sentence in the Discount Bank, or to pay it to the Sequestrator, and in the latter case, to surrender the whole of the property to the sequestrator, for final distribution.

On this ground, however much the enormous amount of the aforesaid sentence had rendered the condition of the estate very precarious, considering that the sentence itself was subject to correction and reversion, and therefore ought to be considered as litigious and precarious also, we proceeded, after having publicly summoned all the creditors in the estate, to advertize for the sale of the effects, in order the better to ascertain the true condition of the estate, steps which we were bound to take in conformity with the 4th article of our instructions, by which it is directed “(in order to preserve the reputation of the deceased) to consider an estate as solvent for so long until the contrary shall have appeared.”

However, some days previous to the intended sale, The Right

Honorable The Court of Appeals not only issued a further order in which we were commanded "To deliver over without delay to the Sequestrator all property of every description which may be in our possession, custody or power, and which belonged or appertained to the Estate of the late Johan Fredrik Veyll, or formed part thereof, whilst the Sequestrator is ordered to pay the monies arising from it into the Colonial Bank to the credit of the cause Van Reenen *versus* Durr," but even the Secretary to that Court repaired in person, in company with the adverse parties Messrs. Von Manger and Bailey, to the Sequestrator's Office, and pressed him continually, forthwith to take over every part of the property from the Orphan Chamber, and to hold himself the sales advertized by the Orphan Chamber, threatening him, in case of non-compliance, with the high displeasure of the Court.

Now, since the proper and faithful administration of the Orphan Chamber had hitherto never been called into question, but on the contrary, had enjoyed the general confidence of the public and the approbation of His Majesty's Government in an eminent degree, and since, in all other cases of a similar nature, it was and is the custom, in conformity with the fourth article of our instructions, after the time prefixed for the creditors in an estate to prefer their claims has expired, and after the sales on account of the estate have been completed, and its insolvency has thereby been fully ascertained, to surrender that estate to the Sequestrator, as a matter of course, and without the intervention of any further decree of a Court of Justice, we were sensible that the order in question not only exposed the public trust in the administration of the Orphan Chamber, in a manner unpleasant to the Board and totally infringed on the 4th Article of our instructions, but we also conceived, that as we administered by virtue of a legal will, not the property of Jan Fredrik Veyll, but the joint property of the late Maria Catharina Veyll and surviving husband Jan Martin Durr, we would expose ourselves to personal responsibility to the creditors and minor heirs of Durr and his deceased wife, were we without being acquainted what part of the estate of Maria Catharina Veyll and Jan Martin Durr ought to be considered as the estate of Jan Fredrik Veyll, to take upon ourselves to surrender to the

Sequestrator without distinction, the whole of the property in our hands, from which nothing but the utmost confusion could be apprehended.

The experience, however, which we in our official capacity had of the impartial justice of the Right Honorable The Court of Appeals, the confidence that the Court would never permit, much less sanction, a deviation from our instructions, caused us to conclude that it could never have been the intention of that Court, careless of the interest of poor and helpless orphans, and by an order so contrary to the often cited fourth article of our instructions, without the least necessity, and before the insolvency of the estate had fully appeared, to withdraw the estate from our administration for the purpose of paying thereout as a *preferent claim* a litigious demand, while other not litigious and notoriously preferent debts contracted by Veyll himself remained unsatisfied. All this led us confidently to suppose, that we had the best grounds for believing that The Right Honorable The Court of Appeals must have been left ignorant of the circumstances which existed relative to the nature of our administration, especially relative to the 4th article of our instructions, and that in consequence the aforesaid order must have been obtained surreptitiously. And under this impression we have considered it our duty to acquaint The Right Honorable Court with the considerations which have arisen with us, and the consequences which we apprehended would result from the immediate compliance with the Court's order, with that effect that an immediate recession of the order ensued.

In our memorial to the Right Honorable Court of Appeals, we have made use of the word surreptitiously, because, as we received the said order without having been heard relative to the grounds on which it rested, we were under the necessity of concluding, that it was the consequence of some application to the Court by the adverse party of Durr, and that the Court had not been informed by the applicants of the predicament in which the Orphan Chamber was placed by virtue of its instructions with regard to the estate of the wife of Durr, which, by the Colonial Law practice, is denominated obtaining something *surreptitiously*, having reference only to the adverse party or his counsel, without reflecting in the slightest degree

on the individuals who administer justice, who by the assertion that some decision has been obtained surreptitiously, are only stated to have been misled.

This word is a technical term of the Dutch Law practice, so that there are even forms in which the words of *subreption* and *obreption* for the sake of regularity must be made use of. Besides, according to our law, all mandates contain this implied condition *si præces veritati instantur i.e.* provided the application be founded on truth, on which ground in every case, where there is no *periculum in mora* every individual feeling himself aggrieved may plead subreption and obreption, and undeceive the judge or other authority, without, however, the fact of having made use of surreptitious means being considered penal on the part of the adverse party, probably because this evil is difficult to be avoided in an *ex parte* statement. We have &c.

The Board of Orphan Masters,

(Signed) J. A. TRUTER.

By order of said Board,

(Signed) J. J. L. SMUTS.

To His Majesty's Commissioners of Inquiry.

[Enclosure 13 in the above.]

CAPE TOWN, 13th July 1826.

GENTLEMEN,—In acknowledging the receipt of your favour of the 12th instant, I have the honor to reply thereto, that to the best of my recollection I never gave to His Excellency Lord Charles Somerset my opinion respecting any of the Court's decisions in the cause of Van Reenen *versus* Durr, or in that of De Wet and Scheuble, excepting that I have communicated to His Excellency my very serious doubts on the legality of the orders of the 9th and 21st October 1823, and some subsequent orders in the case of Van Reenen *versus* Durr, which evidently are founded on two very objectionable reasons: the first, that the action of Mr. Van Reenen should have been brought against Durr in his capacity as executor of Veyll's will, not as the sole heir of Veyll *nomine uxoris*; and the second,

that the estates of Veyll and Durr should have remained two separate estates, up to the date of the sentence passed in the case of Van Reenen *versus* Durr (18 September 1823, or nearly seven years after the decease of Veyll).

The occasion I had to trouble His Excellency with my communication was the injury likely to be sustained by the creditors of Mr. Durr, and by myself as one of these creditors, in consequence of these orders; and my arguments adduced on the occasion were principally founded on facts, such as the records of the proceedings, from which it may appear that Van Reenen has brought his action against Durr, not in the capacity as executor of Veyll, but as the sole heir of Veyll *nomine uxoris*, the judicial decrees authorizing Durr to enter into the possession of Veyll's property, as being his own by title of inheritance, the subsequent transfers of the landed property of the estate of Veyll to the name of Durr after payment of the transfer duty, and all other acts *pro herede*, whereby the two estates have been consolidated into one, and Mr. Durr has been enabled to contract debts and to enter into various transactions on the credit of his recently acquired property; and finally the acquiescence of Van Reenen therein, who never to my knowledge made an application to the competent authorities for the separation of the two estates; without which, it ought to be observed, the creditors of the deceased become *ipso jure* the creditors of the heir and enjoy no better rights than any of his other creditors. I have &c.

(Signed) D. DENYSSSEN.

To His Majesty's Commissioners of Inquiry.

[Enclosure 14 in the above.]

CAPE TOWN, 22nd January 1827.

SIR,—In compliance with your letter of the 20th Instant requesting to be informed “upon what grounds it was that the action which was instituted by Mr. Denyssen, His Majesty's Fiscal, against the late J. M. Durr, Executor and heir of Veyll deceased, and in which he sought to recover the balance of a sum secured by bond, was dismissed by the Court of Justice by a sentence dated 24th March 1824, whether upon the merits or

on account of the state of the property out of which payment was sought by Mr. Denyssen," I have the honor to state, that after perusal of the papers and documents relative to the case, it appears to me that Mr. Denyssen having a private claim on J. M. Durr for one thousand and two hundred Rixdollars, secured by a notarial bond dated 21st July 1820, laid on the 27th February 1824 an arrest upon all the monies and effects then in the hands of the Orphan Chamber as administering the joint estate of Jan Martin Durr and deceased wife Maria Catharina Veyll, an order thereby to recover said claim. '

That on the 4th March following Mr. Denyssen brought an action before the Court of Justice against the Orphan Chamber in aforesaid capacity for the confirmation of that arrest, as also for the recovery of his claim, and that on that day by a sentence of the Court the arrest was dismissed, and the Orphan Chamber, with respect to the claim itself, absolved from the instance with the costs, not only upon the plea of the Orphan Chamber, which was founded on different orders of the Court of Appeals, exhibited at that time in the Court of Justice, but also because it actually appeared to the Court from the said orders that the whole of the money and securities then in the hands of the Orphan Chamber were considered by the Court of Appeals to belong to the estate of the late Johan Fredrik Veyll, and the Board of Orphan Masters directed to pay the same as such into the Bank, and that consequently the Orphan Chamber was not only not qualified, but that it was also entirely out of its power, to satisfy out of that estate the claims against J. M. Durr. I have &c.

(Signed) D. F. BERRANGE, Secretary.

J. T. Bigge, Esquire,
His Majesty's Commissioner of Inquiry.

[Enclosure 15 in the above.]

CAPE TOWN, 29th January 1827.

SIR,—Acknowledging the receipt of your letter of the 26th Instant, in which His Majesty's Commissioner of Inquiry desires "that I would certify the names of the Members of the Court of Justice who signed two several sentences given by that

Court in the causes of Van Reenen *versus* Durr, the first dated 7th June 1821 and the second dated 5th September 1822," I beg to communicate to you, for the information of His Majesty's Commissioner, that it is a constant practice of the Court that all sentences given on the Common or on a pleading Roll, and pronounced immediately after the hearing of the causes, are never signed by the Members who concurred in giving sentence, but only certified by the Secretary, who at the same time records the names of those members who were not present at the meeting, or excused themselves from the deliberations, and that the sentence of the 7th June 1821 having been on the same day on a pleading roll and immediately afterwards pronounced was consequently not signed by the judges, but that it appears from the records of that date that the members Messrs. Mathiessen and Fleck excused themselves from the deliberations, that Mr. Buissinne was not present, that the Secretary likewise excused himself, and that the sentence of the 7th June 1821 was given by the Chief Justice Sir *John Truter* and the members Messrs. *Hiddingh, Bentinck, Neethling, Bresler*, and *P. J. Truter*, assisted and attested by the head clerk Mr. *Jurgens*, but that the other sentence of the 5th September 1822, which was given after the cause was read by the Chief Justice and members individually out of Court (by Rondlezing) bears the signatures of the Chief Justice Sir *John Truter*, and of the members Messrs. *Hiddingh, Bentinck, Neethling, Bresler* and *P. J. Truter*, assisted and attested by the Head Clerk Mr. *Jurgens*. I have &c.

(Signed) D. F. BERRANGE, Secretary.

John Gregory, Esquire,

Secretary to His Majesty's Commissioner of Inquiry.

[Enclosure 16 in the above.]

CAMP GROUND, *February 10th* 1827.

SIR,—I have the honor to acknowledge the receipt of your letter of the 7th Instant, requesting that I will state to you "Whether I recollect that His Excellency Lord Charles Somerset, as Judge in the High Court of Appeal, referred to me for advice previous to a decree of the 28th December 1818 in a case of

De Wet and Scheuble *versus* Durr, whereby the same High Court of Appeal, which by an interlocutory order of the 15th September 1818 had ordered the arbitrators of certain accounts between Van Reenen and Durr to bring in their award on or before the first of January then next ensuing, rescinded this interlocutory order, and remitted the further discussion of this matter to the Worshipful Court of Justice ? ”

In dutiful compliance with this request, I have the honor to state that, having taken a careful retrospect into the papers and other circumstances relating to the question between De Wet and Scheuble *versus* Durr, as well as to that between Van Reenen *versus* Durr, nothing has occurred to my recollection which could lead to the probable conclusion that Lord Charles Somerset ever consulted me on the subject in question.

I have &c.

(Signed) J. A. TRUTER.

John Thomas Bigge, Esquire.

[Enclosure 17 in the above.]

ORPHAN CHAMBER, *February 21st 1827.*

SIR,—We have the honor to acknowledge the receipt of your letter of the 14th instant informing us “that a statement has recently been submitted to you containing a complaint of certain acts committed by us in our collective capacities as administrators of the property of the late J. Veyll, which was intrusted to us by the Court of Appeal in the year 1817, pending a suit respecting the validity of his will,” and inquiring, previous to entering into any detail of the circumstances, *whether as President and Members of the Orphan Chamber we hold ourselves responsible to individuals* who allege that they have been prejudiced by our acts ?

In compliance with your desire we beg leave to submit to your attention the four following articles of the instructions for our Board, viz. :—

Article 70.

When any one might suffer damage through neglect, error, or otherwise of the Secretary, and Orphan Masters have observed the said monthly precautions, no body shall be

responsible than the Secretary and his sureties, unless the said order might not have been attended to by Orphan Masters or their Commissioners, in which case those who might have been in default thereof shall be bound to pay, or to supply from their own monies, what the sufferer might not have been able to recover from the Secretary and his sureties.

Article 71.

Besides the case expressed in the foregoing articles, Orphan Masters shall not be responsible in their persons or property, nor be held answerable for any accidental and unforeseen damage that might befall any estate, inheritance, or private capital, or effect of minors or absentees, when such damage has evidently *not* been caused by their own fault, bad faith (*mala fide*) or supine neglect.

As long as the contrary shall not have been made fully to appear, they are, as all other faithful servants of Government, considered to have acted bona fide and conformable to the dictates of prudence, according to their instructions or other directions to be given to them by the Government for the time being.

Article 72.

When however any one might deem himself prejudiced by Orphan Masters, or want to be furnished with a state and inventory, as also with the liquidation account together with charters and documents of estate in which he is concerned, he shall for that purpose apply to the Board in decent terms, and, in case of pretended prejudice, request to be informed by whom the prejudice has been caused ; and Orphan Masters after having required the report of him or them, who presumptively had caused the prejudice or damage, and consequently is held personally responsible, shall duly inform the person prejudiced hereof, and as much as lies in their power grant him their assistance to have such damage repaired in the speediest and least expensive manner.

Article 73.

In case any person or persons are to be called upon, who ought to participate in repairing such damage, the person

prejudiced shall in such case make a previous extrajudicial (in der minne) demand on him, or them, to have the damage which he suffered repaired, each for his share, and decently to request the suppletion of what after execution may be found deficient, from the Orphan Chamber, who shall represent the case to Government, in order to be informed whether they be allowed to grant such suppletion from the interest accruing to the administration, known by the books under the name of *gain* and *loss*.

The corollary of these articles, as far as relates to the case in question, is as follows :—1st that an individual alleging to have been prejudiced by the acts of any one employed in the administration of the Board is entitled to redress. 2nd that such redress falls on that individual employed in the administration who caused the prejudice or damage. 3rd that Orphan Masters themselves become responsible when the prejudice or damage is caused by their own fault, bad faith, or supine neglect. 4th that when extrajudicial or friendly means to obtain redress prove fruitless, the recourse to law remains ultimately open, without any exception.

From the spirit of these our instructions, we consider ourselves justified to infer that an individual alleging to have been prejudiced by the Board's administration ought regularly in the first place to apply to the Board itself, and only then to resort to compulsive means when he has not been able to obtain from the Board that redress which he deems himself entitled to. Such course might have been expected also from the parties who submitted to you the said statement containing a complaint of certain acts of the Board in the administration of the estate of the late J. Veyll.

This decorous mode of proceeding, which our instructions impose upon individuals who have any demand on Orphan Masters or their functionaries, and which is the actual practice, has constantly been attended with an earnest endeavour on the part of the Board to do justice, of its own accord, to all parties, and to prevent by all possible means litigation, as incompatible with the peaceable nature of its administration. And nothing would be more consonant with our inclination than to have been enabled in the present instance to act on the same principle. However, under the extraordinary circum-

stances of the case, we feel it incumbent on us to submit to the necessity of meeting the parties complaining in a due course of law, and there to await the result of the proceeding.

The extraordinary circumstances to which we allude are the following :—

The guardianship of the Board over the minor heirs of the Widow Durr, sole heir to her late brother J. Veyll, has obliged us to enter an appeal to His Majesty the King in Council against the sentence of the Right Honorable the Court of Appeal in the case *Van Reenen* versus *Durr*. This appeal having been admitted, we have further been obliged to oppose the attempted appropriation of the property in question pending the case in appeal, except under proper security. And this opposition unfortunately happening to be made at a moment when the parties representing Van Reenen flattered themselves with an undisturbed enjoyment of that property, seems to have created a hostile feeling in the breast of those parties, which has shown itself in their throwing out insinuations against the functionaries of the Board who acted in 1817 and 1818, which nothing but a judicial proceeding, where the parties are equally at liberty to represent their respective cases, is calculated to clear up adequately and to our satisfaction.

Without pretending to be infallible or exempt from error, we have no reason to entertain ourselves any doubt about the probable result of such proceeding, but our aim is, and ought we presume to be, to satisfy that part of the community whose interests are closely connected with the correctness of our administration, that the Board's conduct, with regard to the administration of the property of the late Veyll, intrusted to it by the Court of Appeal in 1817, has been as pure and unspotted as on every other occasion.

At the same time we feel flattered that you have done us the justice to express that you do not entertain any doubt of our willingness to afford you every explanation of such acts as have been done by us in our public capacities, and we beg it may be understood that the unpleasant necessity in which we are placed, against our principles and inclination, to prefer in this extraordinary case litigation to a milder mode of decision, has nowise lessened our constant readiness to submit the acts

of the Board, in this instance also, to your personal consideration, whenever you may be pleased to require us to do so.

We have &c.

The President and Members of the Orphan Chamber,

(Signed) J. A. TRUTER.

By order of the same,

(Signed) J. J. L. SMUTS.

J. T. Bigge, Esquire.

[Enclosure 18 in the above.]

ORPHAN CHAMBER, 9th March 1827.

SIR,—We have had the honor to receive your letter of the 24th ultimo, upon the subject of our communication to you of the 21st of the same month, relative to the nature and extent of the responsibility of the Orphan Board to individuals who consider themselves aggrieved by acts of the Board's administration, and, with reference to that part of it in which you request to know the circumstances under which one payment of Rds. 3,000 was made out of the late Mr. Veyll's estate to His Excellency Lord Charles Somerset, we have the honor to transmit to you copies of the resolutions of the Board dated on 24th September and 12 November 1817, from which you will perceive that the sum in question was paid for the covering of sixty mares belonging to the estate of the late Mr. Veyll.

We have &c.

The President and Members of the Orphan Board,

(Signed) J. A. TRUTER.

By order of the same,

(Signed) J. J. L. SMUTS.

His Majesty's Commissioner
of Inquiry.

[Enclosure 19 in the above.]

SIR,—I have the honor to acknowledge the receipt of your letter of the 24th ultimo, requesting "an explanation of the mode in which a debt of mine to the estate of the late J. Veyll amounting to Rds. 4,025 30 has been settled or having been stated by the parties concerned that I hold that sum on loan from the Orphan Chamber for which I pay interest."

In reply, I beg leave to state that I do not now have the sum on loan the said sum, due by me to the estate of the late J. Veyll, but that the same was finally liquidated on the 1st of January 1854, as may appear from the original receipt which I have the honor to annex, and which will show that the sum was not so ambiguously expressed by the word "loan" as to imply an open reservation of my right on the liquidation of the estate of Veyll to claim the restoration of such sum to my account as I might in time be able to prove that the same had been paid or settled, which was done in consequence of the manager of my family affairs having informed me that part of the claim had been actually paid or settled. I had, therefore, this information not satisfactorily ascertained, I did not wish to delay the settlement, and thought it sufficient to settle under the above reservation.

As to the word "Vollstreckung" I suppose it is used as a guide to know which claims are actually paid or settled, and which not, as may be seen in the list of claims annexed.

Now as to the mode in which the payment was made, it may appear from the receipt which has been deposited at the Orphan Chamber of July 1854 that a sum of Rds. 4,000 of the name of Steytler, who was indebted to me in a sum of Rds. 4,000, for the payment of which he was at the time of the receipt has been accepted; which sum was accepted in consideration of Steytler, who being a tenant of a capital sum, would have been extremely distressed if he had been obliged to sell his house to be sold in execution, and who had been indebted to me to the Orphan Chamber, and who had been indebted to me on interest, and in the same manner, he had been indebted to me as a debtor to the Orphan Chamber, and who had been indebted to me mortgage bond.

From this statement, which may minutely be proved by the books of the Orphan Chamber, it will appear that no irregularity was intended, and that even the appearance of personal favour might have been prevented if any suspicion to that effect could have been apprehended.

Having thus answered the main object of your letter, I feel confident that you will permit me to notice also that incidental part of it whereby you remark on my name appearing in the list of securities in the Orphan Chamber to a larger amount than that of almost any other of its debtors, independent of those of my family.

As to myself, it will be found that far the greater part of my debt arises either from mortgages which I have been obliged to take over at the purchase of some of my landed property, or from monies borrowed previous to my appointment as President of the Orphan Chamber, and with regard to my family, to which on the present subject I only consider my three children to belong, two of whom actually borrowed money, the third having also taken over a mortgage at the purchase of his house, I must assure you that if I could have prevented it, they would not have been allowed to apply to the Board, altho' the applications for borrowing money have always been considered as open to every individual in the colony.

The reason why I should have prevented it, and why I have often wished not to be myself a debtor to the Orphan Chamber, was, because I have always considered that any pecuniary connection of the members of the Board, other than out of necessity, with the funds, was calculated to have a tendency to mistrust, and was apt to create a belief or suspicion that the members of the Board would always be preferred to other applicants, and were acting from interested motives. Guided by this feeling, I have soon after my appointment endeavoured to make it a rule with the Board that no member should be allowed in future to borrow money from the Orphan Chamber, but I met so much opposition that I preferred dropping the matter to creating an unpleasant feeling in my colleagues, whose principal objection was that it sometimes happened that when the Orphan Board came under the necessity of prosecuting for money, members of the Board had been called

upon to discharge mortgaged debts, which otherwise would not have been called in, and the forced payment of which would distress their families. I have therefore since restricted myself to the utmost impartiality in making the personal and real security of the applicant the main requisite, and giving preference according to the time of the application; and I feel gratified in stating that the members have never shown the least reluctance to support me in that respect. To which I only beg leave to add that I have constantly found the granting of money on interest to be one of the most unpleasant duties of the President of the Orphan Chamber.

It only remains for me to assure you that I feel perfectly satisfied that you acted without the least intention of wounding my feelings, and that I feel myself under obligation to you for the opportunity afforded me to explain, as well as for the mode which you have been pleased to adopt to that effect.

I have &c.

(Signed) J. A. TRUTER.

John Thomas Bigge, Esquire.

(A number of memoranda, declarations, and letters of minor importance follow, which I have not considered it necessary to copy.—G. M. T.)

[Annexure to the foregoing documents.]

Remarks and Statement of Facts upon Assertions made in the House of Commons in the Month of June 1825, relative to Lord Charles Somerset.

It was asserted in the House of Commons in the month of June 1825 that I “had sold a horse for 10,000 rixdollars, which died before he was delivered, and that 10,000 rixdollars amounted to £2,000 or £3,000 Sterling.” An insinuation also was thrown out that I had “been induced to give a corrupt judgment as Judge in the Court of Appeals in consequence of the sale of a horse to the party favored by the decree.”

Previous to stating the facts of the case, it may be well to explain that a Rixdollar is 1s. 6d. English money, and consequently 10,000 Rixdollars are £750 and not £2,000 or £3,000.

The facts are these :—

The horse in question was purchased on the 1st of September 1818 by a Mr. Fleck (a very respectable member of the Court of Justice, who was the executor and guardian of an estate to which the wife of one Durr had succeeded from her brother named Veyll) on the following conditions: that 7,000 rixdollars* (£525 sterling) were to be paid for him at the expiration of 5 years, and that I was to keep the horse except in the months of the breeding season (September, October, November, and December), and that I was to supply a competent groom to take charge of the horse during those months also.

The horse was delivered on the 1st of September 1818, in perfect health and high beauty, and at the end of the breeding season (January 1819) received back into my stables according to agreement. In March 1819 he was seized with internal inflammation, and died in 48 hours. In consequence of this misfortune I lent the purchaser another equally fine English racer for his stud the following season,† and it was represented to me some months afterwards that he had been disappointed in obtaining a loan from the Lombard bank of 3,000 rixdollars, and that it would be a great convenience to him if I would advance him that sum to pay the transfer duties on and to clear the estate to which he had succeeded; that sum was consequently placed at his disposal.

With respect to the decree of the Court of Appeals, so far

* In proof of the price of the horse not being exorbitant, as the statement in the House endeavoured to establish, the Commissioners of Enquiry in a report to Lord Bathurst, dated October 12th 1824, on the subject of importing English horses to the Cape, state that actual loss must accrue to the vender unless the selling price in the Colony exceeds 8,000 rixdollars, or £600 sterling. It will be perceived, therefore, that this horse, although a very superior and truly beautiful horse, was sold for 1,000 rixdollars, or £75 below the estimated average price, exclusive of the other advantages of the terms to the purchaser.

† It is worth while to examine what has been the probable result of this transaction to the purchaser. Each stallion served upwards of 60 mares, from which the purchaser must have had upwards of 40 live foals each season. Taking the foals at the very low valuation of 125 rixdollars, or £9 7s. 6d. each (no English horse served mares at that period under 100 rixdollars, or £7 10s. each), the two seasons would produce to him 10,000 rixdollars, or £750. He would therefore, it is assumed on this very low calculation, make a clear profit of 3,000 rixdollars or £225 by the purchase, although the horse only lived one season.

from being favorable to the purchaser, who was the respondent in the case, the sentence of the court below was reversed in favor of the appellant, by which the respondent considered himself so much aggrieved that he appealed to the King in Council from this decree. Upon the whole of the decrees in this case in appeal I have only to add that I had the satisfaction of being assured by Mr. Bigge (the Chief Commissioner of Enquiry at the Cape, and a barrister) "that he had very attentively perused the whole of the papers in this case and that had he been the judge in the Court of Appeals, he should have given precisely the same decrees in every stage of the case that I had given," and he added, "and so I believe would any English Lawyer."

It may be matter of surprise how any member of the House could be so imposed upon as to make a statement so palpably adverse to the real facts of the case. It is fair therefore towards that member to say that I have very lately been favored with a copy of a paper which contains this whole story as it was detailed in the House of Commons, addressed by a person named D'Escury to His Majesty's Commissioners of Enquiry. This D'Escury holds two situations under the Cape government, viz. Inspector of Government lands and a government translator, and being of a rapacious disposition solicited me for a third situation (a seat in the court of justice), which, as he was totally disqualified for it, I did not give him; his motive therefore for fabricating this story cannot be mistaken.

(Signed) C. H. SOMERSET.

[Original.]

Letter from JOHN THOMAS BIGGE, ESQRE., to R. W. HAY, ESQRE.

CAPE TOWN, 7th April 1827.

SIR,—In transmitting to Earl Bathurst a report accompanied with several documents upon two memoranda of Mr. Bailey reflecting upon the conduct of the Judicial authorities of the Colony, I beg leave to apprise you that one of the documents, marked D (Private), consists of the reply of the Chief Justice

Sir John Truter to a letter which I thought proper to address to him respecting the alleged non payment of his account to the estate of the late J. Veyll then administered by the Orphan Chamber. This mode of addressing him was adopted by me with a view to spare his feelings upon a subject that was for many reasons disagreeable, and as the charge of non-payment was disproved by other means, I venture to express my hope that in the event of a publication of the Report and Evidence the Reply of Sir John Truter will be excepted.

In the Report I did not think it necessary to notice a decree of Lord Charles Somerset which has been the subject of remark in England, but has not been mentioned by Mr. Bailey, and by which the validity of the second will of Veyll was established and Durr constituted heir and executor.

The evidence in the cause though very suspicious on the whole preponderated in favor of the second will, and it may be remarked that the decree was given at least three months *before* the transaction took place respecting the purchase of the horse by Durr from Lord Charles Somerset. I have &c.

(Signed) JOHN THOMAS BIGGE.

[Original.]

Letter from J. T. BIGGE, ESQRE., to R. W. HAY, ESQRE.

CAPE OF GOOD HOPE, 7 April 1827.

SIR,—Having understood that the Editor of the *South African Commercial Advertiser* has very lately repaired to England for the purpose of preferring a complaint against the recent order of Lord Bathurst for the suspension of his licence in consequence of having published a statement of the case of Mr. Buissinné who was prosecuted for embezzlement of the public money, I thought that it would be expedient to transmit for Lord Bathurst's information an authenticated copy of the proceedings, more especially as I had learnt that the Court of Justice had given permission to Mr. Fairbairn to take one previous to his departure, as I also considered that it would be of some importance that the statement by Lord Charles

Somerset, of his belief of the Fiscal's having received instructions to prosecute Mr. Buissinné criminally previous to the 2nd November 1823 should be confirmed, I had an interview with the Fiscal and afterwards communicated to him my official request that he would state to me his recollection upon the subject, enclosing to him at the same time the judicial copies of the proceedings. As he has not yet returned them to me, I am unable to avail myself of the present opportunity to transmit them, and must now await the departure of the next ship for England.

I will not conclude this letter without expressing my apprehensions of the measure that has been adopted and of the embarrassment which the defence of it may occasion at a moment in which Cape affairs are not received with much indulgence. I think also that some difficulty will be experienced in convincing the public that the prosecution of Mr. Buissinné proceeded altogether from public motives. I have &c.

(Signed) JOHN THOMAS BIGGE.

[Copy.]

*Letter from W. HAWKINS, ESQRE., to the SECRETARY TO
GOVERNMENT.*

'CAPE OF GOOD HOPE, 7th April 1827.

HON. SIR,—I beg leave to communicate for the information of His Honor the Lieutenant Governor, that I have received directions from the Honorable Court of Directors, bearing date the 6th January 1827, to reclaim the advance of Rds. 250,000 made to the Colonial Government on the 30th June 1825, at 4 per cent per annum Interest.

I have therefore to request that the above mentioned sum of Rds. 250,000 may be paid over to me on the 30th June next, on which day there will be six months' interest due thereon.

I have &c.

(Signed) W. HAWKINS,
Agent for Affairs H.E.I. Company.

[Office Copy.]

Letter from EARL BATHURST *to* MAJOR-GENERAL BOURKE.

DOWNING STREET, LONDON, *9th April* 1827.

SIR,—I have received a report from the Commissioners of Colonial Audit, by which it appears that the Financial Accounts of the Government of the Cape for the years 1822, 1823, 1824, and 1825, were not rendered for Audit in this Country until long after the expiration of the period when they should have been received; and as it is manifest, therefore, that due attention has not been paid to my Instructions of the — March 1822, in which I signified the express commands of His Majesty that the Accounts of the Government of the Cape for any one year should be closed and dispatched to this Country within the first three months of the year following, and as it is my determination to enforce His Majesty's Commands upon this subject, I have to desire that you will transmit to me a special Report upon the causes which may have impeded the due transmission of the Accounts in question within the period specified. I am &c.

(Signed) BATHURST.

[Original.]

Letter from LORD CHARLES SOMERSET *to* R. W. HAY, ESQRE.

48 LOWER GROSVENOR STREET, LONDON, *9th April* 1827.

SIR,—I have the honor to acknowledge the receipt of your letter of the 3rd instant conveying to me Earl Bathurst's desire that I would explain what portion of the expenditure incurred for the various Services in which the rebuilding of Newlands is included, may be considered as having been incurred exclusively on account of the Government House there; and the grounds upon which I authorised the rebuilding and repair of Newlands in 1822 and particularly the Out-buildings attached to it, without having obtained the sanction of His Majesty's Government to that measure.

I regret to say that it is not in my power to add much explanation to that contained in my despatch of the 31st of July 1825 and the statement annexed to it. It had ever been considered the duty of the Chief Secretary to Government to ascertain that the Orders and Regulations received from His Majesty's Government at Home or issued by the Governor on the spot were adhered to and obeyed in the Department to which they applied, and in the full conviction that that practice was continued, I omitted to ascertain that the regulations had been observed in the Expenditure alluded to, particularly as the Warrants for the payment of it were submitted for my signature by the Chief Secretary to Government and the Accounts certified by the Auditor.

On my return to the Colony in November 1821, I found the wharf undergoing very extensive repairs, under the Government Inspector of Buildings, by Artificers and Labourers employed under that officer, the Tenders advertised for having been considered too high; and it was thought the most economical plan to continue the same course with regard to the repairs of the Government Buildings, more particularly as the damage done by the Storms in 1822 caused such a demand for Artificers and Labourers that the price of that species of labour rose to an enormous height and the public tradesmen demanded their own price.

The Inspector fixed his people at Newlands, and it appears that from this circumstance the various repairs that were effected by him from time to time were blended together under the title of "Newlands," which were all matters of immediate necessity, which was the cause of a previous reference not having been made, as they arose; but I can assure Earl Bathurst that every repair was made in the plainest and cheapest manner consistent with durability.

Had the £25,000 which was authorised by Earl Bathurst's despatch of the 15th November 1822 to be drawn for on account of damage done to the Government buildings by the storm in 1822, been received, the expenses of the repairs occasioned by that Storm would have been covered by a portion of that sum.

It has long been matter of more regret and vexation to me than I can find words to express, that the Inspector neglected

to keep his accounts in the form required, which has rendered it impossible to ascertain with precision the exact expense of each distinct service on which the artificers and labourers were employed under him ; and although I am ready to take blame to myself and acknowledge my responsibility for such irregularity, I trust Earl Bathurst will perceive that if the Governor does not confide the minute examination of such accounts to the Department to which they are consigned, his time must be wasted in minutiae that belong not to his station and his attention drawn from the important political subjects of his Government. I have &c.

(Signed) CHARLES HENRY SOMERSET.

[Office Copy.]

Letter from EARL BATHURST *to* LORD CHARLES SOMERSET.

DOWNING STREET, 10th April 1827.

MY LORD,—My Under Secretary of State has laid before me your Excellency's letter of the 9th instant in which you explain the reasons which preclude you from stating the specific amount of the sums which have been expended under your directions for the repair of the residence of Newlands as distinguished from the expenditure which has been incurred in the improvement and repairs of other public buildings generally ; and I have now to acquaint your Excellency that having fully considered the several representations which I have received from you, as well as the communications from His Majesty's Commissioners of Enquiry upon this subject, I am induced to sanction the expenditure which you have incurred for the rebuilding and repair of Newlands ; but as I concur in the opinion which has been expressed by the Commissioners, that there was no necessity for providing your Excellency with another country residence in addition to Newlands, I am under the necessity of acquainting you that it is not in my power to relieve you from the responsibility which you have incurred in undertaking the rebuilding of Camp's Bay House without having received the sanction of

His Majesty's Government for that purpose ; and it will therefore be incumbent upon you to take measures for causing the cost of the repair and improvement of that house to be appraised, in order that you may refund to the Colonial Treasury the estimated value of all such improvements as may not be applicable to any public use, in the future appropriation of the Buildings. I have &c.

(Signed) BATHURST.

[Office Copy.]

Letter from EARL BATHURST *to* MAJOR-GENERAL BOURKE.

DOWNING STREET, 10th April 1827.

SIR,—Having recently received a Memorial from Mr. Auret, the Deputy Superintendent of Police, praying for an increase of Salary, I have to desire that you will acquaint that Gentleman that his claims will be considered in common with those of other Servants of the Government of the Colony. I have &c.

(Signed) BATHURST.

[Original.]

Letter from LIEUTENANT T. C. WHITE *to* R. W. HAY, ESQRE.

66 GEORGE STREET, NEW ROAD, April 10th 1827.

SIR,—The ship in which I am about to take my passage to the Cape being chartered to sail on the 20th instant, I do myself the honor to solicit a letter for the Lieutenant Governor of the Colony on the subject of your letters dated 15th November and 9th December 1826, or should instructions have already been conveyed to the Lieutenant Governor, that you will have the goodness to allow me a copy of them. I have &c.

(Signed) T. C. WHITE.

Letter from A. T. Hill Esq. to R. W. Hay Esq.

DOWLING STREET 11 April 1827.

SIR.—I have had from Mr. Balmist your letter of the 1st inst. & have to request that you may be acquainted with the service which Mr. Courtenay has now adopted on the establishment which Mr. Balmist has made to his Majesty for the Cape of Good Hope. I have received Mr. Balmist's letter to acquaint you in regard that Mr. Balmist has applied for four Teachers at various parts of the Cape and that he has been authorized to employ the said Teachers. I am &c.

(Signed) R. W. HAY.

[Office Copy]

Letter from R. W. Hay Esq. to W. Hill Esq.

DOWLING STREET 11 April 1827.

SIR.—I am directed by Mr. Balmist to transmit to you enclosed a statement shewing the Balance of Money at present in the hands of the Agent for the Cape of Good Hope, and an estimate of the demands which he expects will be made upon him during the current quarter; and I am to request that in laying this Paper before the Lords Commissioners of His Majesty's Treasury, you will move their Lordships to make such an issue to Mr. Courtenay as will enable him to carry on the service of his Agency. I am &c.

(Signed) R. W. HAY.

[Office Copy.]

Letter from R. W. HAY, ESQRE., to WILLIAM HILL, ESQRE.

DOWNING STREET, 11 *April* 1827.

SIR,—Thirty half Aums of Constantia Wine having arrived at Spithead from the Cape of Good Hope, by His Majesty's Sloop *Slaney* for the use of His Majesty, I have received Earl Bathurst's directions to request that you will move the Lords Commissioners of His Majesty's Treasury to give the necessary instructions for its being conveyed to the Custom House in London so soon as it shall be delivered into the charge of the Officer of Customs at Portsmouth. I am &c.

(Signed) R. W. HAY.

[Office Copy.]

Letter from R. W. HAY, ESQRE., to the REVEREND JAMES EDGAR.

DOWNING STREET, 11 *April* 1827.

SIR,—In answer to your letter of the 3rd instant, I have in the first place to refer you to mine of the 25th of January last, by which you were apprised that Mr. Courtenay had been desired to issue to you the sum of Fifty Pounds ; and you will, therefore, have the goodness to apply to him accordingly and to send to him the security which you propose to offer for the repayment of the sum in question in case you should not proceed to the Colony. The Paper subscribed by Dr. Lockhart and Mr. Marshall is herewith returned to you.

I have further to apprise you that Earl Bathurst will not object to your proceeding direct from Holland to the Cape of Good Hope, when you shall have satisfied his Lordship that you have acquired a sufficient knowledge of the Dutch Language. I am &c.

(Signed) R. W. HAY.

[Office Copy.]

Letter from R. W. HAY, ESQRE., to BARRON FIELD, ESQRE.

DOWNING STREET, 11 April 1827.

SIR,—I have received the directions of Earl Bathurst to acquaint you that his Lordship proposes to recommend your name for the appointment of Puisne Judge at the Cape of Good Hope, an office which his Lordship hopes may be agreeable to you. I am &c.

(Signed) R. W. HAY.

[Original.]

Letter from T. P. COURTENAY, ESQRE., to R. W. HAY, ESQRE.

ABINGDON STREET, April 11th 1827.

SIR,—In reference to my letter of the 4th of August last, and to your reply of the 12th of the same month, I have to inform you that I have now received from the Government of the Cape of Good Hope a requisition, herewith transmitted, for clothing for the Cape Infantry.

His Excellency the Lieutenant Governor has represented that the men are in immediate want of the clothing, but that it will be better, if the Regiment is to be reduced, to give them compensation in lieu thereof; and I have to request that you will furnish me with Earl Bathurst's instructions on this subject. I have &c.

(Signed) T. P. COURTENAY,
Agent for the Government of the Cape of Good Hope.

[Original.]

Letter from T. P. COURTENAY, ESQRE., to R. W. HAY, ESQRE.

ABINGDON STREET, April 11th 1827.

SIR,—His Excellency the Lieutenant Governor of the Cape of Good Hope has determined, with the view of reducing the expenditure incurred for stationery by the several civil depart-

ments of that Government, to furnish them with the requisite supplies from the Cape Colonial Office, and has directed me to apply for Earl Bathurst's authority for sending annually to the Colony the stationery mentioned in the enclosed list, for the payment of which remittances will be made from the Cape.

It does not appear whether the List now sent includes, or not, the stationery for the Cape Colonial Office authorized by your letter of December 19th, 1825, but I propose, as the supply now required is large, to consider it as including that formerly required, and to send out with it, if Earl Bathurst is pleased to authorize such a proceeding, only so much of the annual supply formerly authorized as relates to the Printing Department, for which no provision is made in the enclosed list.

I have &c.

(Signed) T. P. COURTENAY,
Agent for the Government of the Cape of Good Hope.

[Office Copy.]

Letter from R. W. HAY, ESQRE., to LORD CHARLES SOMERSET.

DOWNING STREET, 12th April 1827.

MY DEAR LORD,—Mr. Witham the Notary having addressed an official application to this Department, praying for a confirmation of the leave of absence which was originally granted to him from the Colony, I have desired Mr. Stephen to report upon the case, and he only confirms the objections upon which Lord Bathurst declined to interfere; so that in fact if Mr. Witham's licence of leave is valid in point of Law, he has nothing to ask, and if invalid, he must apply for relief to the Court of Justice to which as an Officer of the Court he ought to have known that he should have applied in the first instance. I remain &c.

(Signed) R. W. HAY.

[Office Copy.]

Letter from R. W. HAY, ESQRE., to SIR HERBERT TAYLOR.

DOWNING STREET, 12 *April* 1827.

SIR,—Earl Bathurst being of opinion that the Frontier of Caffreland may be sufficiently protected against the depredations of the Caffres by a less expensive force than the present Cape Corps of Cavalry and Infantry, I have received his Lordship's directions to transmit to you enclosed for the consideration of His Grace the Commander in Chief the draft of an Establishment of such a Corps of mounted Riflemen as is considered sufficient to accomplish the object of protecting the frontier of Caffreland ; and I am to request that you will move His Grace to give directions for carrying into effect the reorganization of the present Cape Corps upon the reduced Scale of Establishment enclosed. I am &c.

(Signed) R. W. HAY.

[Office Copy.]

Letter from R. W. HAY, ESQRE., to L. SULLIVAN, ESQRE.

DOWNING STREET, 12 *April* 1827.

SIR,—It being proposed to reorganize the present Cape Corps of Cavalry and Infantry upon the reduced scale of Establishment which is herewith enclosed, I have received Earl Bathurst's directions to desire that you will move the Secretary at War to furnish his Lordship with an Estimate of the charge which it would be necessary to provide for a Corps of Mounted Riflemen upon the Establishment enclosed. I am &c.

(Signed) R. W. HAY.

[Office Copy.]

Letter from R. W. HAY, ESQRE., to LIEUTENANT T. C. WHITE.

DOWNING STREET, 12 *April* 1827.

SIR,—I have to acknowledge the receipt of your letter of the 10th instant and to acquaint you in reply that as Earl Bathurst has made a communication to the Lieutenant Governor of the Cape of Good Hope, conformably with the assurances which were conveyed to you on the 9th of December last, it does not appear that there is any necessity for now giving you a letter of introduction to the Lieutenant Governor. I am &c.

(Signed) R. W. HAY.

[Original.]

Letter from JOHN THOMAS BIGGE, ESQRE., to R. W. HAY, ESQRE.

CAPE TOWN, 12th *April* 1827.

SIR,—In pursuance of the intention that I had the honor to announce to you in my letter of the 7th inst. marked Private, I beg leave to enclose for the information of Earl Bathurst a translated copy of the judicial proceedings in the case of Mr. Buissinné, as well as a letter from His Majesty's Fiscal in explanation and reply to the inquiry which I addressed to him respecting the instructions that he might have received previous to the 2nd November 1823 from the Colonial Government, for instituting a criminal prosecution.

Mr. Denyssen recollects that he received some verbal communication from the Governor previous to the abovementioned day, and thinks that it must have consisted of information of the Auditor touching the default of Mr. Buissinné. In confirmation of which I perfectly recollect that Lord Charles Somerset expressed to me his surprise on the morning of the 2nd November (which was a Sunday) that the Fiscal had taken no steps of any kind, altho' he had given orders that he should

be apprized of what had taken place in the Department of Land Revenue in the course of the preceding week.

The Fiscal *virtute officii* is bound to prosecute all offenders against the laws, and he is equally bound to protect the revenue without waiting for special instructions, nor can I reconcile with the principles which he has adopted on other occasions the necessity of being furnished with such instructions, which he puts forward as an excuse for his delay in the first instance, or afterwards for proceeding against the Sequestrator for an erroneous sentence in the distribution of Mr. Buissinné's estate, by which the interests of the Crown would have materially suffered, if the error had not been corrected on reference to the Court of Justice.

With the view of confirming the Fiscal's statement of the nature of the crime of peculation, I beg leave to annex an extract taken from a chapter of the work of an eminent Dutch Criminalist (Van der Linden) in which he treats of the crime, and also adds a circumstance by which it is considered to be aggravated, the presumed existence of which in the present case by the Court of Justice must have induced them to extend the punishment from 3 to 7 years.

Upon inquiry it has appeared that altho' Mr. Buissinné had taken an oath for the honest and faithful performance of his duties when he was appointed a member of the Court of Justice, yet he had not been required to repeat it when he received the new appointment of "Receiver of Land Revenue." It is not true that in that capacity he made oath to the quarterly accounts rendered by him to the Government and the Colonial Auditor. He made oath before the Fiscal to the correctness of the general account of his Department at the end of each year, but the account which he had sworn to at the end of the year preceding his default did not comprise the sums for the misappropriation of which he was prosecuted.

I do not think it necessary to enter into further details respecting the Judicial proceedings, but referring you to the general opinion expressed by the Fiscal of their correctness,

I have &c.

(Signed) JOHN THOMAS BIGGE.

P.S. The proceedings in reaudition before the Full Court

are reported by Mr. O. Truter, one of the Proctors whom we employed specially on the occasion.

(It cannot be necessary to give the voluminous enclosures in this letter.—G. M. T.)

[Original.]

Letter from MAJOR COLEBROOKE to R. W. HAY, ESQRE.

PORT LOUIS, MAURITIUS, *April 12th 1827.*

SIR,—As you will have received by this time the letter which Mr. Bigge addressed to you on the 7th of January relative to the mistake which he had occasion to notice in our report upon the case of Bishop Burnett, and as I am without the means of reference to the papers, and really feel that I could add nothing to his explanation, I deem it only necessary to second the assurance which Mr. Bigge has requested you to convey to Earl Bathurst that the error, however it may have arisen, was an involuntary one, and that our disposition from the first moment that the case of Mr. Burnett was brought before us by himself, was to treat it with the strictest impartiality.

That Mr. Burnett's early communications to Earl Bathurst attest his belief of this, as the result of all our communications with him in the Colony is a less satisfactory proof than that which is perhaps afforded by the present explanations of Mr. Bigge, for however the statement in our report may vary from the amended one, the result is not more favorable to Mr. Burnett.

I perfectly remember having seen the copy of the placard in the handwriting of Burnett and which was found by the Fiscal amongst the papers of Edwards, and I also recollect that the circumstance made a most unfavorable impression on my mind regarding him, under whatever circumstances it had been written or communicated. I have &c.

(Signed) W. M. G. COLEBROOKE.

[Copy].

Letter from the SECRETARY TO GOVERNMENT *to*
W. HAWKINS, ESQRE.

COLONIAL OFFICE, 12th April 1827.

SIR,—I have the honor to acknowledge the receipt of your letter of the 7th instant, applying for the repayment of the sum of Rds. 250,000, held by the Colonial Government for the Honorable East India Company on loan, and in reply I have it in command from his Honor the Lieutenant Governor to inform you that His Excellency Lord Charles Somerset has already acquainted His Majesty's Government with the necessity the Colonial Government was under of borrowing this sum, and that His Honor will lose no time in communicating to Earl Bathurst the wish of the Honorable East India Company to have the amount refunded, in order that he may receive His Lordship's directions as to the mode of repayment.

The interest in the mean time will continue to be paid up.

I have &c.

(Signed) R. PLASKET,
Secretary to Government.

[Original.]

Letter from MAJOR-GENERAL BOURKE *to* R. W. HAY, ESQRE.

GOVERNMENT HOUSE, CAPE TOWN, 13th April 1827.

MY DEAR SIR,—Your letter of the 13th November last upon the subject of the removal of the Dutch Boers from that part of the Neutral Territory adjoining the District of Somerset upon which they had placed themselves, arrived just in time to prevent much of the distress which you had very truly anticipated.

This subject is of considerable importance to the Colony, and having become intricate and confused from the want of full and explicit communication, I shall venture to trespass

on your time by bringing the whole matter before you in this letter.

It appears that on the 11th March 1825 Lord C. Somerset annexed a portion of the ceded or neutral territory to the District of Somerset, giving it the name of the Field Cornetcy of the East Riet River. Upon this His Excellency determined to place certain families nearly all Dutch, and applications were made for grants of land in this Field Cornetcy by above two hundred persons.

Before any grants were made, and I believe previously to any inspection or measurement for the purpose of preparing grants, but not as I apprehend before a considerable occupation had been permitted by the Local Authorities, the Commissioners of Inquiry addressed Lord C. Somerset (on the 20th August 1825) requesting to learn whether the clause prohibiting slave labor was to be introduced into grants of land in the lately formed field cornetcy. This appears to have drawn His Excellency's attention to the point, and he wrote to Earl Bathurst the despatch of the 1st October 1825 to which you have alluded.

In the mean time, however, the inspection and measurement of the Field Cornetcy was proceeded with, and I received a report upon the subject from the Board of Landdrost and Heemraden in the month of March 1826, shortly after Lord C. Somerset had left the Colony. On the 28th May I received Earl Bathurst's reply to Lord C. Somerset's despatch of the 1st October preceding. His Lordship therein desires "His Excellency to pause before he finally disposes of lands which it would be more desirable to place in the occupation of other Individuals." This despatch is dated the 9th January 1826 and numbered 233. Immediately upon its receipt I wrote to the Landdrost of Somerset on the subject, and ascertained from his replies that 46 Families had actually built upon and cultivated part of the land and that 74 more held portions of it for grazing cattle. In consequence however of my orders the Landdrost subsequently informed me that those families had begun to remove. In my despatch of the 14th July 1826 I reported to Lord Bathurst to that effect.

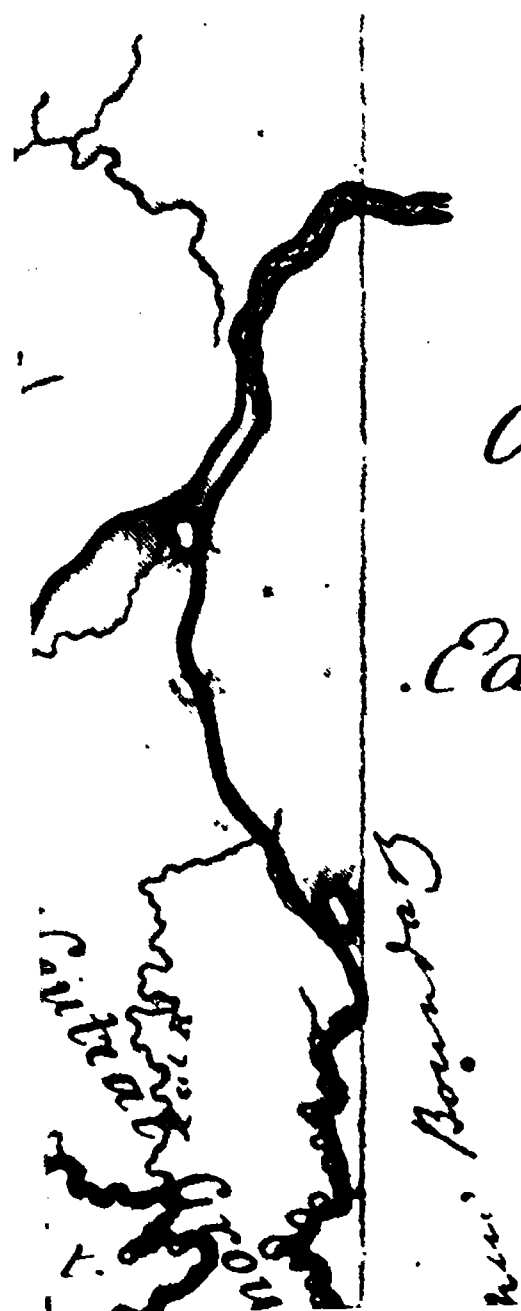
Shortly after I had sent off that despatch, I received a memorial from the persons who had ploughed and sown on

these lands requesting to be allowed to occupy them until they had got in the harvest, a favor which I could not well deny. The crops having been cut, I had again pressed the removal of those people, and after various representations and memorials they were again moving in great affliction, when I received your letter of the 13th November last informing me that Earl Bathurst had been induced to reconsider the case of those distressed individuals.

From this communication I learned that it would not be displeasing to Earl Bathurst that I should retain on their lands such of those Colonists as are willing to dispense with slave labor; and finding in their last memorial that several persons have expressed their willingness to acquiesce in this regulation, I have instructed the Landdrost to permit the occupation of such persons as have already built houses or cultivated and who will sign an engagement to hold such lands without the employment of slave labor, upon the clear understanding however that the permission to remain under such conditions is not to be considered as a permanent grant or even as affording an equitable claim to possession, but that those persons should hold themselves in readiness to remove on the shortest notice if His Majesty's Government shall not approve of the occupation of that portion of the ceded territory. In the mean time the Landdrost is strictly enjoined to prevent any further occupation of that District.

It is now my duty to state for Earl Bathurst's information such circumstances relative to that portion of the ceded territory annexed to the District by His Excellency Lord C. Somerset as may facilitate His Lordship's decision upon the expediency of confirming the annexation and the possessions of those Colonists now residing upon it.

By a paragraph in Earl Bathurst's despatch of the 26th October 1826 I learn that His Lordship entertains no doubt of the competency of the Colonial Government to occupy the ceded territory, and such being the case, the enclosed sketch of part of the Frontier will at once show that the portion annexed by Lord C. Somerset is that which from its local situation it is most convenient to occupy, being the space where the Fish river forms a large reëntering angle and throws back the ancient boundary of the colony in an abrupt and awkward



Outline Plan.
of the
Eastern Frontier.
Cape of Good Hope.

A. Burch.

direction. The land I understand is good, and its proximity to the newly established Drostdy of Somerset renders it a desirable acquisition.

The persons who applying for land in this annexed territory have placed themselves upon it according to the general though illegal practice of the Colony (and in this case by an extension of the common abuse) are of the ordinary description of Dutch colonists as far as I can learn, and probably not more likely to entrap and enslave the savages in their front than English settlers similarly placed. As far as I have discovered, there is but little difference of conduct between the old and the new Colonists in matters where their interest is concerned, and I confess I think those of the Dutch may be as safely trusted on the Frontier as those of the English race. I do not however apprehend that either are likely to make slaves of the Caffres, as the adults of those tribes will neither submit to slavery in their own persons nor allow their children to be stolen. These are the people immediately in front of the proposed annexation, and the distance to their boundary is considerable.

In my dispatch of the 19th May last I thought it my duty to bring under Earl Bathurst's notice the actual circumstances of the ceded, or as it is called, neutral territory, and the different opinions which prevailed as to the parole treaty of 1819. His Lordship has decided that it is competent to the Colonial Government to occupy that territory, and such being the fact, I would venture to recommend that the annexation made by Lord C. Somerset should be confirmed, and that those Dutch Boers who have consented to occupy subject to the clause prohibiting slave labor should have the lands conveyed to them in perpetual Quit Rent.

I annex the condition of occupying without the employment of slave labor, as you have stated it to be that upon which Earl Bathurst would permit the land to be held by the persons in question, but I could have wished that the proposition which I had the honor to submit in my dispatch of the 13th July 1826 had met His Lordship's approbation, and that those persons for whom land had been measured and who had paid for the surveys without any intimation made to them that the clause

against slave labor was to be introduced into the grants might have received their Title Deeds without such restriction.

As you were so good as to state in your Letter of the 13th November last to which this is in reply, that the private explanation it contained was given in the hope that I might be able to mitigate the effect of Lord Bathurst's former orders which were issued under a misapprehension of the actual state of the case, I have, as you may perceive, considered that communication as an authority and have acted upon it accordingly ; and I have to request you will be so kind as to consider this letter as official in everything but form. I have &c.

(Signed) RICHD. BOURKE.

[Copy.]

*Letter from W. HAWKINS, ESQRE., to the SECRETARY TO
GOVERNMENT.*

CAPE OF GOOD HOPE, 14th April 1827.

HON. SIR,—I have the honor of acknowledging the receipt of your letter of the 12th Instant, informing me by command of His Honor the Lieutenant Governor, that His Honor "will lose no time in communicating to Earl Bathurst the wish of the Honorable East India Company, to have the amount of the loan refunded, in order that he may receive his Lordship's directions as to the mode of repayment."

With reference to my letter of the 29th June 1825, when the Loan was first made, you will find that I made it a condition of the loan that the interest and capital should be paid in the Old Paper Currency, and acquiesced in by your letter of same date.

The Court of Directors have not intimated to me any communication having taken place with His Majesty's Government on the subject of the loan which was made on my own responsibility, but subsequently approved by the Court.

I have &c.

(Signed) W. HAWKINS,
Agent for Affairs Honorable East India Company.

[Copy.]

Letter from MR. CHARLES D'ESCURY to J. T. BIGGE, ESQRE.

CAPE TOWN, 14th April 1827.

SIR,—As the object for which you wished me to attend at your office on Thursday last the 12th instant, was to put me on my guard in case any explanation should be required of me on the subject of certain passages in Mr. Bishop Burnett's publication, respecting which you find it necessary to write to Lord Bathurst, in order to defend your office from any suspicion that through its means Mr. Burnett may have obtained the information he has published; if I am correct in having understood this to have been your intention, I beg you to accept my best acknowledgments for your kindness; at the same time it may be useful to present to you the following observations on that subject.

It appeared to me that you laid too much stress on the circumstance of the translation made by me of Mr. Poggenpoel's letters to Ockhuizen, differing in phraseology from that made by your own Interpreter, and that what appeared in Mr. Burnett's publication being that which corresponds with mine, deducing therefrom, as I understood you, that he could not have obtained it by means of any one at that time in your office, which thence would bring the suspicion nearer to me. If this was what you meant to infer, I must beg leave to differ. It is clear that both translations were simultaneously in your office, and if, for the sake of argument, it be supposed that Mr. Burnett could have obtained a copy from thence, it would be much more likely that my translation would have been given to him than the other, since as it was to be used in England, the fraud would be much more likely to escape detection, because when there compared with the copy in Downing Street, it would at once be seen that it was not the same thing, and the supposition would be that some one or other had translated those letters for Ockhuizen, either for his own use or for that of others, and your office would of course stand clear.

In point of fact I attach very little to the manner in which Mr. B. Burnett obtained the information, so long as I am perfectly satisfied that he cannot have done so by any means directly

or indirectly known to me, in which either my office or myself are concerned ; the foregoing observation therefore is by no means intended to throw back the suspicion on your office. But what remains certain is that unknown to yourself you had at that time in your employ a most suspicious character, as to the relation in which he stood to you, an intimate friend of Mr. B. Burnett then living in the same house with him. It is also certain that Mr. B. Burnett has published many other things, equally surprising as to how he came by them ; and he declares to have a great deal besides in his possession. He says to have all the evidence in *the Hantam case*, which is much more than I ever knew, or was permitted to know. But he seems to know also what is far more important than the Hantam or any similar case, perhaps more so than all such cases put together, namely Colonel Bird's correspondence with the Commissioners. How does he come by that ? No examination has taken place upon it that could have given it publicity, and no one I believe will suspect Colonel Bird of having been privy to Mr. B. Burnett's publication, yet he pledges himself to lay it before the Public, to do which it must be in his possession. It is clear therefore that he must have found out some means to procure most important information on different subjects.

But taking another view of the subject, allow me to say that if I had meant to give publicity to the Hantam case, or to any other subject relative to the special enquiry, I would have done it openly, as I have done everything else, and I would have justified my doing so upon the plain and natural ground of *self defence*, because of the publicity that was given to the proceedings, and the use Lord Charles Somerset and his friends made of it to injure me in the public opinion, of which you will recollect I made a formal complaint to you, Lord Charles' friends at the same time, with ardent exultation, proclaiming my total defeat and the certainty of my future ruin ! while His Lordship went the length of actually offering or promising my situation to my intended successor ! Under these circumstances it would surely not have required a great deal to have justified my enabling my friends to publish, or to have myself published, the whole of the transactions, when such a publication must have included the Groote Post con-

cerns as well as those of the Hantam, since though not belonging to the latter, they were made the groundwork of the charge against me. I think therefore that I should have been perfectly justified had I done so, upon the simple ground here stated, without reverting at all to the nature of the charge itself, or to the mode of proceeding upon it that followed. But I preferred a more moderate course. I thought it more dignified to await the result, and then to act as that should guide me. In the mean time I cautiously abstained from anything that may have the appearance of party feeling, and avoided all communication with those who could be supposed actuated by that spirit. It was necessary however that I should write to England to enable those with whom I had communicated to support and explain what I had stated, and to defend me in case I should there be attacked; but it was for these purposes only, and those I have so written to are by character and station far above the suspicion of being capable of a breach of confidence.

I shall now only add what I expressed to Lord Bathurst, to whom I wrote by the first mail after Mr. B. Burnett's publication had been received here. I said I hope it is not necessary to assure your Lordship that Mr. B. Burnett is no acquaintance of mine, or that I would not under any circumstances have enabled him or any one to publish from my papers; and I beg most unequivocally to declare upon my word of honor that I can form no idea how Mr. Burnett has obtained the information he has published. I have &c.

(Signed) CHAS. D'ESCURY.

[Original.]

Letter from SIR RICHARD PLASKET *to* R. W. HAY, ESQRE.

CAPE OF GOOD HOPE, *April 18th 1827.*

MY DEAR SIR,—We have received accounts through some private channel that a Despatch has been written by Earl Bathurst, to order Newlands to be sold and to allow no country house to the Governor.

I am sure if Earl Bathurst were fully acquainted with the situation of the two Government Houses in Town and at Newlands, and with the actual necessity that exists in this Colony for every man who possesses anything like an Establishment to keep a farm of his own, there being no market for the supply of either poultry, butter, or vegetables, of the better description, that he would not have adopted this step, and I am equally sure that he could not have adopted one that will be more unpopular.

The grounds adjoining Government House in Town used formerly to be considered as the property of the Public, and part of them were laid out in botanical gardens, walks, &c.

The principal public walk still continues, although the botanical gardens are done away, and there is nothing that has caused more dissatisfaction among the inhabitants of Cape Town than the abolition of these Public Gardens.

If the Governor is henceforth to be allowed no Country Residence, he will of course be obliged to make use of all the ground belonging to Government House in Town for vegetable gardens, and for the supply of green forage for his cows and other stock. To secure these crops the grounds must be enclosed, and the Public will then be entirely shut out from the Public Walk.

I can easily conceive that the large sums lately expended on Newlands have caused the adoption of the measure, but it would in my opinion be infinitely preferable to put the house into a state of preservation against wind and weather, and to make the actual Governor residing there keep it in proper repair at his own expense, or to allow two or three hundred a year for so doing, and to take it out of his Salary, rather than sell the property, which will in fact fetch little.

Every merchant and shopkeeper in the Colony almost have a country house. It is absolutely unhealthy to reside during the summer months in Cape Town, and Newlands is the only house fit for the reception of a large family.

You will not I am sure accuse me of being a friend to extravagance. I have been bred up under a man who was notorious for his economy in public expenditure, and I am fully impressed with the necessity of economy in the strictest sense in this Colony at the present moment, but at the same time I should

most sincerely regret to see the Governor deprived of a Country Residence. I have &c.

(Signed) RICH'D. PLASKET, Secretary to Government.

[Copy.]]

Letter from MR. CHARLES D'ESCURY to J. T. BIGGE, ESQRE.

CAPE TOWN, 19th April 1827.

SIR,—After recapitulating the conversation that took place at your office yesterday and referring to the letter I had the honor of addressing you on the 14th instant, wherein I said “It was necessary however that I should write to England, to enable those with whom I had communicated to support and sustain what I had stated and to defend me in case I should be attacked,” it has occurred to me that the expression there used may be considered as too general and undefined, and thence be liable to misconstruction. I beg leave therefore to mention who those are here alluded to, with whom I have so communicated. In the first place I request you to refer to my letter addressed to Mr. Wilmot Horton of 15th March 1823, wherein I mentioned that, for the reasons there stated, I had written on the subject of the papers then transmitted by me to Lord Howden and to Sir Rufane Donkin; to the latter I have occasionally continued to write on the same subjects, and stated the consequences to which what I had considered, and must ever consider, an honest and conscientious discharge of my duty had exposed me. Next, when proceedings were instituted against me, when the course pursued was that of the most decided hostility, and that standing alone, unsupported by any human assistance, opposed to the most fearful odds, and thence doubtful of the result, I then wrote to a gentleman, a Member of Parliament, the situation in which I was placed, and requested that should I be attacked by Lord Charles Somerset’s friends in England, as I was by himself and his friends here, he would, on the grounds I had stated to him, defend me. It was Mr. Buxton I addressed for that purpose, as being a moderate man and equally respected by all parties.

I have now named to you, Sir, the only three Individuals with whom I have communicated respecting the transactions in this Colony in which I have been more particularly engaged, and believe I am justified in saying that by character and station they are far above the suspicion of a breach of confidence, while I feel equally confident that my motive for addressing them under the circumstances under which I have done so can require no apology. I have &c.

(Signed) CHAS. D'ESCURY.

[Original.]

Letter from the NAVY BOARD to R. W. HAY, ESQRE.

NAVY OFFICE, 20th April 1827.

SIR,—With reference to your letter of the 13th of October last, we acquaint you, for the information of Earl Bathurst, that we have reserved room in the *Champion*, Convict Ship, which is now fitting in the River Thames, for the conveyance from the Cape of Good Hope to New South Wales of the eight persons, natives of England or Ireland, who have been sentenced by the Courts of the Colony of the Cape of Good Hope to transportation; and the necessary orders will be given for the ship to touch at the Cape to receive those persons on board.

We are &c.

(Signed) H. LEGGE,
ROBERT G. MIDDLETON,
S. BOYLE.

[Original.]

Letter from MR. F. RAWSTORNE to R. W. HAY, ESQRE.

61 WARREN STREET, FITZROY SQUARE, April 20th 1827.

SIR,—Being on the point of proceeding to the Cape of Good Hope with the intention of soliciting a grant of land in the settlement of Albany, I have the honor to request to be favored

with a letter to the Lieutenant Governor of that Colony, directing me to be placed on the footing of the original settlers in that district, with reference to their gratuitous admission to the rights and privileges of a Burgher under the existing laws. I have &c.

(Signed) F. RAWSTORNE.

[Office Copy.]

Letter from R. W. HAY, ESQRE., to ROBERT LUKIN, ESQRE.

DOWNING STREET, 21 April 1827.

SIR,—Having laid before the Earl Bathurst your letter of the 20th instant, I have received his Lordship's directions to acquaint you in reply that the Cape Corps of Infantry is to be reduced and that his Lordship would therefore recommend that the Secretary at War should communicate with the Commander in Chief with respect to the appointments of Captains Aitcheson and Ashe to the Corps in question.

I am &c.

(Signed) R. W. HAY.

[Copy.]

Ordinance No. 28, G. R. (Signed) RICHD. BOURKE.

Ordinance of His Honor the Lieutenant-Governor in Council,

For destroying the Sum of 3,000 Rixdollars, being the Twenty-first Instalment of the Sum of 75,000 Rixdollars created and advanced by the Batavian Government in the Year 1804, for the special purpose of repairing the Damages occasioned by a Fire in the Village of Stellenbosch.

Whereas the Landdrost and Heemraden of Stellenbosch have repaid to the Colonial Treasury the Sum of *Three Thousand Rixdollars*, being the Twenty-first Instalment of the Sum of *Seventy-five Thousand Rixdollars*, which had been created and

advanced by the Batavian Government, in the Year 1804, for the special purpose of repairing the Damages occasioned by a Fire in that Village, and which Money was to be repaid by Instalments of *Three Thousand Rixdollars* per annum, and publicly destroyed, as directed by the Proclamation of the Governor and Council of the 30th September, 1804 :

Be it therefore enacted, That it shall and may be lawful for the Governor of this Colony for the time being at any time within one month after the passing of this Ordinance, by Warrant under his Hand and Seal, to authorise and require D. Denyssen, Esq., His Majesty's Fiscal, W. Hewetson, Esq., Deputy Commissary General, together with two Members of the Court of Justice, and two Members of the Burgher Senate, to be appointed by the Court and Senate, to meet at the Office of Revenue, in Cape Town, on any day and hour to be named in such Warrant, being within one month from the passing of this Ordinance, then and there to receive from the Honorable J. W. Stoll, Esq., His Majesty's Receiver General, the Sum of *Three Thousand Rixdollars*, being the amount of the Twenty-first Instalment of the Sum of Seventy-five Thousand Rixdollars paid into the Colonial Treasury on the 15th June, 1826, by the Landdrost and Heemraden of Stellenbosch, in liquidation of the Loan made to them by the Batavian Government in the Year 1804, and after examining the same, to cause the same to be publicly burned and destroyed in their presence.

And in case the examination of the several Pieces of Money which constitute the above Sum of *Three Thousand Rixdollars* cannot be concluded in one day, then and in that case it shall and may be lawful for the said D. Denyssen, Esq., His Majesty's Fiscal, W. Hewetson, Esq., Deputy Commissary General, and the other Persons described as aforesaid, to adjourn, and proceed therein as shall appear best to them ; but so as to finish and conclude in the shortest time possible.

And it is hereby further directed, That the several Persons abovementioned shall sign three Certificates of their Proceedings herein, to be drawn up and prepared by Mr. C. M. Zastron, Clerk in the Colonial Secretary's Office, under the direction of His Majesty's Fiscal, two of which Certificates are to be delivered to the Hon. J. W. Stoll, Esq., as his discharge for the Sum of *Three Thousand Rixdollars*, with which he now

stands charged to His Majesty, and the other is to be lodged in the Records of the Court of Justice, by His Majesty's Fiscal and the Members thereunto belonging, at the next Meeting after the signing as above directed.

And it is further enacted, That His Majesty's Fiscal shall require and demand of the Court of Justice, within fourteen days after the lodging of such Certificates as abovementioned, that they, the said Court of Justice, do pass a Public Act, under their Hand and the Seal of the Court, certifying and declaring all their Proceedings which have been held and have taken place with regard to the destroying of the *Three Thousand Rixdollars* received from the Landdrost and Heemraden of Stellenbosch, annexing to or including in such their Act, authentic Copies of the several Certificates lodged, as directed in their Records, which Public Act is to be presented to the Governor of this Colony for the time being, to be disposed of in such manner as to him may seem fit, for the satisfaction of His Majesty in the premises.

God save the King !

Given at the Cape of Good Hope, this 21st Day of April, 1827.

By Command of His Honor the Lieutenant-Governor,

(Signed) R. PLASKET, Secretary to Government.

By order of the Council,

(Signed) D. M. PERCEVAL, Clerk of the Council.

[Original.]

Letter from MR. BARRON FIELD to R. W. HAY, ESQRE.

LIVERPOOL, 21st April 1827.

SIR,—I have the honour to acknowledge the receipt, on the 16th instant, of your letter dated the 11th, informing me that Earl Bathurst proposed to recommend me to the appointment of Puisne Judge at the Cape of Good Hope, an office which his lordship hoped might be agreeable to me.

I should have accepted with thankfulness the very eligible situation which Lord Bathurst was pleased to propose to me, but that I understand my late Colleague in New South Wales, Mr. Wylde, has received the appointment of Chief Justice in the same Colony, and I am quite sure, from our many unfortunate differences of opinion in New South Wales, (some of which are detailed in Mr. Bigge's Report, with his judgment in my favour, but that is past) that he and I can never sit together with satisfaction to ourselves, or advantage to His Majesty's service. It is therefore a duty I owe to that service, in all humility, with every acknowledgement to Lord Bathurst and to you, and with real regret, respectfully to decline an appointment, which would otherwise have recommended itself to me by the fine climate and the interesting geographical and botanical situation of the Cape of Good Hope.

I believe you are aware, Sir, that having lately, at some expense, settled in this town in the practice of my profession, and for certain parental reasons my wishes are to remain in England, but as I cannot expect, although I have been already abroad eight years, at my time of life, to be the sole exception to just and necessary retrenchment in colonial pensions, I beg to say that I consider myself bound again to serve His Majesty in the very next judicial office (Vice Admiralty or other) of equal nature with my last, that may become vacant in any one of the colonies, except the West Indies (to the climate of which I am advised that my habit of body is not suited) and Sierra Leone. I have &c.

(Signed) BARRON FIELD.

[Original.]

Letter from MAJOR-GENERAL BOURKE to EARL BATHURST.

GOVERNMENT HOUSE, CAPE TOWN, *April 23rd 1827.*

MY LORD,—I have the honor to transmit attested translations of the Record of the trial of three Bosjesmen named Uithaalder, Kieviet and Slinger for murder before the Court of Circuit at Graaff Reinet on the 28th October 1826 and of the sentence

of the Court of Justice passed at Cape Town on the 7th February last condemning those three persons to death.

I have signed the Warrant for the execution of Uithaolder and Slinger, but have reprieved Kieviet until His Majesty's pleasure shall be known.

I have taken this course as it appears to me that the evidence against Kieviet is not of a description to justify his condemnation, being extracted entirely from the confession and unsworn answers of the other two prisoners, whilst Kieviet himself not only denied having assisted in the perpetration of the crime, but asserted that he had endeavoured to prevent it. I learn from the Chief Justice that this view of the case was also taken by some of the members of the Court.

I have therefore dutifully to recommend the prisoner Kieviet as an object for the Royal mercy, praying that His Majesty may be graciously pleased to grant him a free pardon.

I have &c.

(Signed) RICHD. BOURKE.

(The enclosures are missing.—G. M. T.)

[Office Copy.]

Letter from R. W. HAY, ESQRE., to MR. J. RAWSTORNE.

DOWNING STREET, 23 *April* 1827.

SIR,—I have to acknowledge the receipt of your letter of the 20th instant and to acquaint you in reply that any British Subject who may proceed to the Cape of Good Hope will be fully entitled during his residence in the Colony to the protection of its Laws, and that no special introduction to the Lieutenant Governor is necessary for the purposes which you have in view. I am &c.

(Signed) R. W. HAY.

[Original.]

*Letter from MAJOR-GENERAL BOURKE to EARL BATHURST.*GOVERNMENT HOUSE, CAPE TOWN, *April 24th 1827.*

MY LORD,—I have the honor to inform Your Lordship that in conformity to the Instructions contained in Your Lordship's despatch of the 14th November 1826 I have replaced Mr. Rivers in the office of Landdrost of Swellendam, there being no other employment vacant to which I could with propriety appoint that gentleman. I have &c.

(Signed) RICHD. BOURKE.

[Original.]

*Letter from J. T. BIGGE, ESQRE., to R. W. HAY, ESQRE.*CAPE TOWN, *24th April 1827.*

SIR,—I do myself the honor of transmitting to you, for the information of Earl Bathurst, two letters which have been addressed to me by Mr. D'Escury after an interview in which I had pointed out to him certain passages and documents contained in the reply of Mr. Bishop Burnett to the Report of Major Colebrooke and myself upon his case, and which seemed to bear a very strong resemblance to the contents of several which had been furnished by him or to Evidence that had been received by us in the course of the enquiry into the truth of his communications to Earl Bathurst, respecting the conduct of Lord Charles Somerset. As you will perceive that Mr. D'Escury has not hesitated to impute the disclosures (of which it is clear that Burnett has availed himself) to a violation of oath and duty by a Clerk who was employed in our Office and who is now Dead, I must in justice to that Person and to others connected with us beg leave to address a very few observations to you, which I request you will do me the favor of submitting to the consideration of Earl Bathurst.

The first passage to which I allude, and which occurs in the

221st page of Burnett's Book, relates as you will find to the transfer of a horse named Orville from the Groote Post to the Somerset Farm, and the application of the funds of the latter, amounting to 5550 rixdollars, to the purchase of another Stallion named "Vanguard," which had been imported by Lord Charles Somerset for the use of the Groote Post Farm. Mr. D'Escury has stated to me that this memorandum had been shewn to him, and that it was in the hands of other Persons previous to our arrival in the Colony, but it is almost unnecessary for me to add, that the facts stated in it must have been obtained from the accounts and vouchers of the Groote Post and Somerset Farms, or from persons who had access to or had investigated them. The document containing these remarks forms one of very many relating to the Government Farms which were submitted to us by Mr. D'Escury soon after our arrival, and which he stated that he had kept back in expectation of that event. As we did not consider that the circumstances detailed in it had any connection with the enquiry in which we afterwards engaged respecting the grant of a large tract of land at the Hantam by Lord Charles Somerset, we did not enter into a consideration of the subject at that time, nor did we transmit a copy of the Document, which has remained in our office ever since.

The next passage occurs in the 287th and following pages, but more especially in page 291, where after detailing the circumstances of the Hantam case Mr. Burnett confirms them by appealing to the evidence before the Commissioners of Inquiry which (he says) is "in his possession," and by exhibiting two letters of Mr. Poggenpoel to a man named Ockhuysen, in which the former urges the purchase of the "Sorcerer" horse. My attention having been called to these letters soon after the appearance of Burnett's Book in the Colony, I took an early opportunity of examining them, and found that the translations given by Burnett differed from those which were appended to our Report on the Hantam case, and which were executed in our office by an Interpreter of our own and sworn to secrecy, while they agreed verbatim with the translations which were transmitted to us by Mr. D'Escury with his letter under date 21st July 1824, a copy of which will be found amongst the papers in the Hantam case.

I did not fail to call Mr. D'Escury's attention to this circumstance considering it strongly indicative of the means by which Burnett must have gained possession of the letters. You will perceive that Mr. D'Escury argues against this inference first by assuming that both copies were in our office at the same time and that the Person who surreptitiously took them must have been employed in it and would not of anxiety to direct suspicion from the Office select that Copy for communication the discrepancy of which with our official copy would be most obvious and easily detected. In the first place, I must observe that the Man Cockington who had preserved the letters was in the habit of bringing them to Cape Town, where he communicated with Mr. D'Escury, who was known to have exposed the claim of the Emancipants of the Hantam District against the exclusive possession of the Mountain of that name claimed by the ~~Emancipators~~.

Cockington is a Person not without in sagacity, and was quite as sensible of the value of these letters as Mr. D'Escury was who sent them, and who lest we should undervalue their importance took the trouble to translate them for us himself. It is not unreasonable therefore to suppose that other Persons besides Mr. D'Escury might have seen and taken copies of these letters long before they were delivered to us, and as they were not official Documents, neither is it unreasonable to assume that copies and translations of them may have been taken and made by Mr. D'Escury himself. Under these circumstances his hypothesis, which presumes that no other translation of the letters existed than that which he sent us and that which was made by our Interpreter, falls to the ground, and the existence of other channels of communication than the corrupt one of our Clerk very naturally suggests itself as far as regards the communication of these letters.

I proceed to notice the assertion of Mr. D'Escury that "we had in our employ a most suspicious Character as to the relation in which he stood to us, an intimate Friend of Mr. Bishop Burnett, then living in the same house with him." I beg leave to state that Mr. Hart, the person alluded to, had solicited employment from us at an earlier period, and which was declined, but as we found that the business of the Office increased, and as the Individual in question had been strongly

recommended to me for fidelity and honesty, he was employed by us as a copying clerk after being sworn to secrecy. He was thus in our employment during the progress of the inquiry into the Hantam Case, and copied a portion of the evidence and documents which were transmitted in duplicate to the Colonial Office, as well as other papers the originals of which were retained. At the same period he resided at a lodging house in Cape Town where Bishop Burnett also happened to take up his abode previous to and during his trial for a libel on the Judges of the Court of Circuit in the year 1823. As it is stated by Mr. D'Escury that he there formed an intimate friendship with Burnett, I deemed it necessary to make some inquiry upon that Subject of a Person who lodged in the house at the same period, and I beg leave to subjoin his answers to the questions that I put to him, and which utterly negative the imputation. His habits seem to have been those of silence and reserve, even when under the influence of strong liquors, to which after the hours of business he was unfortunately addicted.

As the two Clerks whom we employed did not sit in the same room as the Secretary (Mr. Gregory), it is impossible to say what advantage they might have taken of the opportunities they enjoyed of copying or even of carrying away papers during the intervals of rest or retirement during the day. It was the practice of Mr. Gregory, under whose official charge all the papers and documents of the commission with the exception of a few of a secret and confidential kind were placed, to receive from the two copying clerks on their retirement from the Office all the papers submitted to them during the day, and to deposit them in his own room, the key of which was kept by the Office Keeper, a respectable Man now employed by the Police, and who resided in the offices attached to the house. We have no reason whatever to suspect any violation or even neglect of duty on the part of this person, and the circumstance of his not being able to read afforded an additional security against the temporary abstraction or the selection of any papers that he might have been requested to communicate.

The substance of the evidence in the Hantam Case, which Mr. Burnett says is in his possession, might have been communicated by the Persons who gave it, as we have reason to

believe has been done in other cases by witnesses who have been examined before us.

I observe that the substance of the evidence of some of the witnesses, but more especially of that given by Mr. Bailey, is correctly quoted by Burnett, and some points even in which we intimated a difference of opinion with Mr. D'Escury are noticed and censured.

The allusion in the 9th page of the preface to the restrictions in which we concurred to our communications with Lieutenant Colonel Bird, would lead me to believe that Mr. Burnett's boast of possessing proofs of them is unfounded, as it is utterly contradicted by the contents of the letter which we addressed to Colonel Bird together with his answer, copies of which I have the honor to annex, and to which I particularly solicit the attention of Lord Bathurst, as I think it possible that the charge may be repeated in Parliament if it should not already have been made there, and as the documents in question have not yet been forwarded.

It is stated by Burnett that prior to the dismissal of Colonel Bird one of our earliest acts was to intimate to him "*that whatever information we might require connected with the Colonial Government we deemed it proper only to receive through the hands of Lord Charles Somerset. This (he adds) is absolutely terrible &c. &c. &c.*"

By referring to the copy of the letter that we addressed to Colonel Bird on this subject, you will find that it was only upon occasions in which we should require a reference to the *documents deposited* in the office of the Colonial Secretary that we should conform to the arrangement proposed to us by Lord Charles Somerset. The latter part of our letter will sufficiently contradict the "conclusive" nature of the proofs which Mr. Burnett says that he possesses of our determination to decline communications from persons capable of affording us information, while I need hardly add, that we possess many incontestable proofs of the encouragement that we have given to persons of that description, although I think it very possible that our Estimate of their capacity and intelligence may have differed widely from that of Bishop Burnett.

Whether the statement of our early intercourse with Colonel Bird proceeds from a wilful perversion of the contents of our

letter by Burnett, or from the information given to him by others respecting it, I will not stop to consider, but it is evident from another passage in the same preface that he pretends to have obtained Official information in England respecting the nature of our proceedings in the Colony, as he states "that the first intimation the Noble Earl (Bathurst) had of Colonel Bird's having been examined by us was from Colonel Bird himself." Upon this assertion I will only observe that the fact of Colonel Bird's having been examined was mentioned by us, and his answers quoted in several communications that we had the honor to make to the Colonial Office long previous to the publication of our report on Burnett's case.

Without further conjecture as to the sources of his information either in this colony or in England, I will now only request that you will draw the attention of Lord Bathurst to Mr. D'Escury's letter of the 19th April, in which after alluding to a former avowal that he (Mr. D'Escury) had made to Mr. Wilmot Horton, he names the three only Individuals with whom he says that he has communicated respecting the transactions in the Colony in which he has been particularly engaged.

The death of the clerk before mentioned precludes me from making any appeal to his testimony or to his faithful adherence to the pledge of secrecy he had so solemnly given on entering into his office, but I will take an early opportunity of sending to Mauritius for a similar declaration from Mr. Mackrill, the other clerk employed by us, whose character for steadiness and integrity is I believe universally acknowledged. I have &c.

(Signed) JOHN THOMAS BIGGE.

[Original.]

Letter from MAJOR-GENERAL BOURKE to EARL BATHURST.

GOVERNMENT HOUSE, CAPE TOWN, *April 25th* 1827.

MY LORD,—I have the honor to inform Your Lordship that the General Statement of Accounts for the year 1826 and the Comparative Statements as required by the Instructions of the

Lords Commissioners of His Majesty's Treasury have been this day forwarded to the Colonial Auditors in London.

I beg leave to transmit herewith a copy of one of those documents, for the purpose of bringing at once under Your Lordship's notice the deficiency of the permanent Revenue of the Colony in the year 1826 as compared with 1825 and preceding years. In the Customs, the Inland Duties, in those on Transfers of Property and in the Stamps, the deficiency has been considerable, and it is evident that if I had not had recourse to some balances of former advances to the Lombard Bank and other similar aids to the Revenue, I could not have maintained the existing Civil and Military Establishments. To the Capital of the Lombard Bank I must continue to apply as I see no reason for expecting any immediate improvement in the Revenue; and however anxiously I may endeavor to reduce the contingent expenditure of the Colony, its ordinary Establishment requires an annual sum to which the permanent Revenue is little more than sufficient. The contingencies for 1826 are much lower than those of 1825, but there are some considerable expenses under these heads to be incurred this year which it will not be possible to avoid, such as the repair of the Jetty, of the Government House in Cape Town, as reported in my despatch of the 13th September 1826, and of other public buildings which must be kept up. I have &c.

(Signed) RICHD. BOURKE.

[Original.]

Memorial of MR. JOHN FOURNIER.

The Humble Memorial of the Undersigned John Fournier
Begs leave to state

With reference to what has transpired in the case which he has had the honor of submitting to your Lordship, that until the present time your Memorialist from pecuniary circumstances has not had it in his power of any way benefiting by the indulgence proffered him by your Lordship. But that his friends having now kindly come forward to supply him with a small capital, which he is fully confident would enable

him to re-establish himself at the Cape of Good Hope, provided your Lordship would be pleased to grant him the subjoined conditions which he is emboldened to make in consideration of the peculiar hardships and distresses he has met with as well in the service of his country as at the Cape, and which he stated to your Lordship on the 29th of September 1826.

Your Memorialist in thus submitting the merits of his Petition to your Lordship's humanity and Probity on which he entirely confides, humbly prays your Lordship will be pleased to grant it.

A select grant of 1,000 acres of land with permission to take out such servants as would be necessary, and under circumstances not less favourable than those held out to the settlers in general who embarked for the Cape in the year 1819.

That in addition to this grant of 1,000 acres that 500 may be made exclusively on consideration of his service of 9 years in His Majesty's Navy, and which your Memorialist would deem necessary for the purpose of raising cattle, on which he would principally have to depend.

And that he might be indulged with permission to take out a few sheep of the Merino breed, with a view of turning his attention to the production of Wool, which your Memorialist has no doubt would succeed, and be highly beneficial to the country in general.

And your Memorialist as in duty bound will ever pray.

No. 76 Upper Ebury Street, Chelsea.

April 25th 1827.

(Signed) JOHN FOURNIER.

To Earl Bathurst,

Secretary of State for the Colonies.

[Original.]

Letter from MAJOR-GENERAL BOURKE to EARL BATHURST.

GOVERNMENT HOUSE, CAPE TOWN, *April 26th 1827.*

MY LORD,—I have the honor to transmit the copy of a letter received by the Chief Secretary to this Government from Mr. Hawkins, Agent at this place for the Honorable the East

India Company requesting that the sum of Rds. 250,000 £ s. 70) lent to the Government of this Colony from the funds of the Company on the 30th June 1825, at 4 per cent per annum interest, may be repaid to him on the 30th June 1827.

The loan was made by Mr. Hawkins on his own responsibility, but was subsequently approved by the Court of Directors, and by reference to the letter of the 29th June 1825, herewith enclosed. Your Lordship will perceive that the Capital and Interest are to be paid in the old paper currency. The Interest has been paid regularly to the 31st December last.

Your Lordship is aware that the present state of the Colonial Finances will not allow the repayment of so considerable a sum without occasioning a failure of payment to some other claimant. I have therefore to request Your Lordship's instructions on the subject. I have &c.

(Signed) RICHD. BOURKE.

[Enclosure 1 in the above.]

Letter from W. Hawkins, Esqre., to Sir Richard Plasket, dated 7th April 1827. See page 273.

[Enclosure 2 in the above.]

COLONIAL OFFICE, 29th June 1825.

SIR, With reference to the conversation I had the honor of holding with you some days since on the subject of a Loan to be made by you to Government out of the funds in your hands belonging to the Honourable East India Company, I have now to inform you that His Excellency the Governor will be happy to accept of such Loan to the extent of Two Hundred and Fifty Thousand Rixdollars, for which Interest will be paid to you half yearly at the rate of 4 per cent per annum.

His Excellency will communicate with Earl Bathurst on the subject of this loan, and should the measure not prove agreeable to the Honourable East India Company, he will take the necessary steps for repaying the Capital to you without delay.

His Excellency therefore requests you will be good enough to give a Draft for the amount to the Receiver General Mr. Stoll, who will be authorised to give you a receipt for the same.

I have &c.

(Signed) RICH'D. PLASKET, Secretary to Government.

W. Hawkins, Esqre.,

Hon. East India Company's Agent.

[Office Copy.]

Letter from R. W. HAY, ESQRE., to T. P. COURTENAY, ESQRE.

DOWNING STREET, 27 April 1827.

SIR,—With reference to the communication which I had the honor of addressing to you on the 18th of November last, I have received the directions of Earl Bathurst to desire that you will state to the President of the Board of Control that his Lordship will be happy to learn that it may be found convenient to make arrangements for enabling the Bishop of Calcutta, on his voyage to India, to visit the Cape of Good Hope, for the purpose of conferring confirmation on the British Youth of that Colony; and his Lordship proposes to have some communication upon the subject with the Bishop of London.

I am also desired to express his Lordship's hope that the Bishop may be allowed at no distant period to visit the Colony of Ceylon and the Australian Possessions for the same and other important objects. I am &c.

(Signed) R. W. HAY.

[Office Copy.]

Letter from R. W. HAY, ESQRE., to the REVEREND A. HAMILTON.

DOWNING STREET, 27th April 1827.

MY DEAR SIR,—I wish you would take an opportunity when you may be coming this way of calling here for the purpose of talking over the arrangements which it will be necessary to

make for the purpose of enabling the Bishop of Calcutta to confirm the British Youth at the Cape. I presume that the Bishop will of course require some authority from the Bishop of London for the purpose, which you can easily arrange.

Yours very truly,

(Signed) R. W. HAY.

[Office Copy.]

Letter from R. W. HAY, ESQRE., to R. BYHAM, ESQRE.

DOWNING STREET, 27 April 1827.

SIR,—Having laid before Earl Bathurst your letter of the 11th instant, I am directed by his Lordship to acquaint you in reply for the information of the Board of Ordnance that the Lieutenant Governor of the Cape of Good Hope has been directed to take measures for either returning to the Ordnance Department or paying the value of the supply of muskets which have been furnished by that Department at the Cape for the service of the Albany District. I am &c.

(Signed) R. W. HAY.

[Original.]

Letter from MAJOR-GENERAL BOURKE to EARL BATHURST.

GOVERNMENT HOUSE, CAPE TOWN, 27th April 1827.

MY LORD,—With reference to Your Lordship's despatch (circular) under date 30th April 1823, I have the honor to transmit to your Lordship Returns of the Revenue and Expenditure, Population, Exports and Imports, and of the Civil Establishment of this Colony for the year 1826.

I have &c.

(Signed) RICHD. BOURKE.

[Original.]

Letter from MAJOR-GENERAL BOURKE to EARL BATHURST.

GOVERNMENT HOUSE, CAPE TOWN, 28th April 1827.

MY LORD,—I have the honor to transmit to your Lordship a list of alterations that have taken place on the Civil Establishment of this Government during the Quarter ending 31st ultimo.

Your Lordship will perceive that with the exception of the Civil Engineer's Department, no additional expense has been thrown upon the Colony by any of the arrangements now submitted to your Lordship, and as the two items of expense marked Nos. 2 and 3 under the head of Civil Engineer in the accompanying enclosure will, though occasionally necessary, be of unfrequent recurrence and trivial in amount, I have to request that your Lordship may be pleased to sanction these alterations, and direct your approval of them to be conveyed to the Commissioners of Colonial Audit. I have &c.

(Signed) RICHD. BOURKE.

[Enclosure 1 in the above.]

List of Items transferred from the Unfixed to the Fixed Contingent Expenditure of the Government of the Cape of Good Hope during the Quarter ending 31st March 1827, and requiring the sanction of His Majesty's Secretary of State for the Colonies.

1. Museum allowance to the Superintendent not to exceed £150 per annum from 1st January 1827 for the purpose of stuffing specimens of natural curiosity, and defraying the expense of such articles as may be required for the Museum.

Remark. This item was hitherto included in the Unfixed Contingent Expenditure of the Government, but being clearly of a Fixed Contingent nature, as some expense is sure to be incurred, it has been judged preferable to place the same on the Schedule of Fixed Contingencies. This item is therefore merely a transfer from one branch to the other of the public expenditure.

2. Public Library, not exceeding £500 per annum from 1st January 1827, for the purchase of Books and the support of the Establishment.

Remark. See the Governor's despatch to Earl Bathurst dated 12th September 1826.

3. Stationery and Bookbinders' work for the following Departments from 1st January 1827: Council office, Public Library, Printing office, Commandant of Robben Island, Supreme Medical Committee, Civil Engineer and Superintendent of Works and Buildings, and Colonial Paymaster.

Remark. By a late arrangement the supply of Stationery and Bookbinders' work for all the Departments of Government having been contracted for, the charge is now brought forward in one account. With a view to uniformity therefore the charges for Stationery for the offices here mentioned, hitherto considered as unfixed, are proposed to be likewise placed in the Schedule of Fixed Contingencies.

4. Police Office. Boathire for the conveyance of the Commandant of Robben Island and of the Convicts to and from the Island at 7s. 6d. per trip, from 1st March 1827.

Remark. This item has been reduced from 15s. to 7s. 6d.

5. Civil Engineer and Superintendent of Government Works and Buildings. (1) Boat and Coolie hire at the established rate of the Tariff when required for landing or embarking Stores &c. under authority of Government, and boat hire for any other service when a boat may be required by the Civil Engineer, and when the Harbour Master's boat may not be available. (2) Hire of Artificers or Workmen when absolutely necessary to assist the Civil Engineer in making inspections of buildings and other public works preparatory to his drawing out reports thereon or making estimates for the repairs &c. which may be required for the same, at a rate to be contracted for annually.

Remark. This expense has become necessary, as the Assistant Civil Engineer lately sent out is not a practical builder and declines discharging this duty.

Do. (3) Horse hire at the rate not exceeding 7s. 6d. per diem when required by the Civil Engineer or his assistant for proceeding on public service under the authority of Government beyond the limits of Cape Town and District thereof.

Remark. As the Civil Engineer is liable to be ordered in public service beyond the limits of Cape Town and as he is of necessity put to expense on such occasions, the Lieutenant Governor has considered it requisite to allow this charge.

[Enclosure 2 in the above.]

New Appointments conferred during the Quarter ending 31 March 1827.

Postmaster at Wynberg at the rate of £6 per annum, from 1st February 1827.

Remark. This situation was created in consequence of the Postmaster-General's representation of the necessity of it. The person who contracted for the conveyance of the mail between Cape Town and Simon's Town having had the charge of delivering the letters at Wynberg, a reduction in his contract for conveying that post was made in consequence of this arrangement exceeding the amount of this appointment.

[Enclosure 3 in the above.]

POST OFFICE, 16th December 1826.

SIR,—In consequence of the increase of Inhabitants in the vicinity of Wynberg, and also correspondence thereto, I have the honor to propose for the sanction of His Honor the Lieutenant Governor the establishment of a Post Office at a convenient house, and the appointment of a Postmaster there at a low salary, which will ensure greater regularity in the delivery of letters and newspapers and prevent the delay that hitherto took place by the post going from house to house for that purpose. I have &c.

(Signed) R. CROZIER, Postmaster General.

The Hon. the Secretary to Government.

[Enclosure 4 in the above.]

Items transferred from the Fixed Contingent Expenditure of the Government to the Fixed Establishment.

1. Gaoler of the Town Prison. Salary £45 per annum.
2. Instructor of the Prisoners in the Gaol. Salary £31 10s. per annum.

From 1st January 1827.

Remark. These situations being of a permanent nature and not likely to be discontinued have accordingly been placed on the Fixed Establishment. It was deemed advisable to make this transfer with a view to obtain precision in the definition of the heads into which the accounts of the government are divided.

[Original.]

Letter from MAJOR-GENERAL BOURKE to EARL BATHURST.

GOVERNMENT HOUSE, CAPE TOWN, *April 28th 1827.*

MY LORD,—With reference to my despatch No. 76, of the 13th September last, I have the honor to acquaint your Lordship that I have been informed by Messrs. Chiappini & Co. that Mr. J. H. Stædel, the late Vendue Master of Uitenhage, has liquidated their claim for the amount of the proceeds of sales held by him on their account in the District of Uitenhage.

I have &c.

(Signed) RICHD. BOURKE.

[Original.]

Letter from MAJOR-GENERAL BOURKE to EARL BATHURST.

CAPE OF GOOD HOPE, *April 28th 1827.*

MY LORD,—I have the honor to transmit to your Lordship the General Monthly Return of the Forces serving under my command to the 25th March 1827. I have &c.

(Signed) RICHD. BOURKE, Major General.

[Original.]

Letter from J. C. HERRIES, ESQRE., to R. W. HAY, ESQRE.

TREASURY CHAMBERS, 28th April 1827.

SIR,—I herewith transmit by Command of the Lords Commissioners of His Majesty's Treasury, for the information of the Secretary of State, and for any observations that may occur to him thereon, a letter from Deputy Commissary General Hewetson, dated Cape of Good Hope the 2nd of December 1826, enclosing a statement shewing the balance due by the Colonial Government of the Cape of Good Hope to the Military Chest on the 24th of June 1826 on account of sundry claims for disbursements made by the Commissariat for supplies furnished to the Cape Corps of Cavalry and Infantry and various other services on account of the Colony to that date.

I am Sir &c.

(Signed) J. C. HERRIES.

[Enclosure in the above.]

COMMISSARIAT, CAPE OF GOOD HOPE,
CAPE TOWN, 2nd December 1826.

SIR,—I have the honor to forward herewith Statement No. 7, shewing the amount, viz. £62,866 14s. 7½d. due to the Military Chest by the Colonial Government of the Cape of Good Hope on account of sundry claims for provisions, and forage supplied to the Cape Native Corps, &c., &c., payment of allowances and various disbursements made by this Department up to the 24th of June last. My Lords will observe the increasing amount of this debt, no payment having, of late, been made by the Colonial Government on account thereof. Copies of the several claims Nos. 1 to 8, amounting to £6,751 18s. 0¾d. for the half year ending 24th June 1826 are annexed for their Lordships' information. I have &c.

(Signed) W. HEWETSON.

The Secretary to the Treasury.

[Copy.]

Notice.

DOWNING STREET, 30 *April* 1827.

The Right Honorable the Earl Bathurst having this day resigned the seals of the Colonial and War Department, they were thereupon delivered by His Majesty to the Lord Viscount Goderich, who was sworn in Secretary of State accordingly.

[Original.]

*Letter from MAJOR-GENERAL BOURKE to EARL BATHURST.*GOVERNMENT HOUSE, CAPE TOWN, 30th *April* 1827.

MY LORD,—I have the honor to transmit to your Lordship copies of the Proceedings of His Majesty's Council in this Colony from the 16th day of October (the date on which the last six months proceedings closed) up to the end of the year 1826, and I shall arrange in future that these documents shall be made up at the end of each half year, and forwarded to your Lordship. I have &c.

(Signed) RICHD. BOURKE.

[Original.]

*Letter from MAJOR-GENERAL BOURKE to EARL BATHURST.*GOVERNMENT HOUSE, CAPE TOWN, 30th *April* 1827.

MY LORD,—Upon the receipt of your Lordship's despatch of the 24th November last, with its enclosures from the Board of Treasury and Commissioners of Colonial Audit on the subject of the bills drawn by His Excellency Lord C. H. Somerset upon the Lords Commissioners of His Majesty's Treasury, I directed the documents required by the Commissioners of Audit to be forthwith prepared, and I have now the honor of transmitting to your Lordship the accounts of the Receiver General and of the Bank, with the necessary vouchers in their support.

The account rendered by the Discount Bank being deficient in the information called for, owing to the circumstance of the issue of the sums deposited being made upon the cheques

of His Excellency the Governor, which, as is usual, do not express the purposes for which they are drawn, I have found it necessary to annex two explanatory statements A and B, the first shewing the total amount of the proceeds and their application, and the second the amount received by the Discount Bank on account of interest on the sums advanced, and in repayment of principal, and the manner in which the sums so received have been disposed of.

The annexure marked Letter C is a return to the account No. 4 required by the Colonial Auditors, and contains a statement of the amount received for Interest, or in payment of Principal by the Lombard Bank, and of the manner in which such receipts have been disposed of up to the end of the year 1826.

By this document your Lordship will perceive that I found it necessary in the month of July last to appropriate to the pressing exigencies of this Government the sum of £1,481 0 5 $\frac{1}{4}$, being the amount of Interest paid into the Lombard Bank on account of a portion (£15,000) of the sum of £35,097 10 7 up to the 31st December 1825; and of a further sum of £573 4 9 $\frac{1}{2}$, being the amount of Interest received on the same sum of £15,000 up to the 31st December 1826; and that the Directors of the Bank being pressed by this Government to repay to the Treasury a loan made to them in 1808, availed themselves in November last (under the authority of Government) of the sum of £994 5s. being repayments then in their hands of Capital on this same sum of £15,000.

For both of these sums and any others which I may still find it necessary to take from the same sources, the Colonial Treasury must be indebted if it shall please your Lordship so to determine. But the full and explicit statements which I have had the honor to submit on the subject of the finances of this Government have, I apprehend, made it apparent to your Lordship that I must of necessity avail myself of any sums I can collect in aid of the Revenue, for the maintenance of the Civil and Military Establishments of the Colony.

I have &c.

(Signed) RICHD. BOURKE.

(The enclosures in this despatch are missing.—G. M. T.)

[Copy.]

Order in Council.

At the Court of St. James, the 30th April 1827.

Present : the King's Most Excellent Majesty in Council.

Whereas by an Act of Parliament passed in the 6th year of His Majesty's Reign, intituled, " An Act to regulate the Trade of the British Possessions abroad " it is amongst other things enacted that it shall be lawful for His Majesty by and with the advice of His Privy Council by any Order or Orders in Council to be issued from time to time to give such directions, and make such regulations touching the Trade and Commerce to and from any British Possessions on or near the Continent of Europe or within the Mediterranean Sea, or in Africa, or within the limits of the East India Company's Charter excepting the possessions of the said Company, as to His Majesty in Council shall appear most expedient or salutary. And it is further enacted that if any Goods shall be imported or exported in any manner contrary to such Order of His Majesty in Council the same shall be forfeited together with the Ship importing or exporting the same, and whereas it is expedient in Pursuance of the Powers vested in His Majesty by the said Act of Parliament to make some temporary Regulations touching the Trade and Commerce to and from the British Possessions aforesaid, within the limits of the East India Company's Charter until permanent Regulations in that behalf can be finally made and established. His Majesty is therefore pleased by and with the advice of His Privy Council and in Pursuance and Exercise of the authority in Him vested in and by the said Act of Parliament to order and direct, and it is hereby ordered, that the Trade and Commerce of His Majesty's Settlements and Territories at the Cape of Good Hope and of His Majesty's Island of Mauritius and of His Majesty's Island of Ceylon, and of His Majesty's Settlements and Territories in New South Wales and of His Majesty's Island of Van Dieman's Land, with the respective Dependencies thereof, shall from, and after the arrival of this present Order within any of the said several Settlements Territories and Islands be regulated in manner following, that is to say all such Laws, Rules, Orders

and Regulations as were in force within the Settlements Territories and Islands aforesaid or any of them for the Regulation of the Trade and Commerce thereof upon the first Day of July in the year 1825 shall until further Order be made by His Majesty in this behalf revive, and continue, and be of full force, virtue, and effect within the several Settlements, Territories and Islands aforesaid respectively, and if any Goods shall be imported or exported in any manner contrary hereto, such goods together with the Ships importing, or exporting the same, shall incur, and become liable to such forfeiture as in the Act of Parliament is mentioned in that behalf. Provided always that nothing herein contained, shall extend, or be construed to extend to contravene, vary, alter, or in any wise affect the said Act of Parliament so far as the same hath made express provision respecting the Trade to and from the said Island of Mauritius, or respecting the exportation of Sugar or Wine from any British Possessions within the limits of the East India Company's Charter, nor so far as the said Act of Parliament hath expressly mentioned or referred to the Trade of any of His Majesty's Possessions aforesaid.

Provided also that nothing in this present Order contained shall extend or be construed to extend to contravene, vary, alter, or in any wise affect two other Acts of Parliament passed in the 6th year of His Majesty's Reign intituled respectively "An Act for the Encouragement of British Shipping and Navigation" and "An Act for the registering of British Vessels," or any other Act or Acts passed in amendment of the Act hereinbefore mentioned. Provided also that nothing in this present Order contained shall be construed to revoke, abrogate, or any wise alter certain Orders of His Majesty in Council respecting the Trade of France and of the United States of America respectively bearing date the 1st of June 1826, the 27th of July 1826, and the 16th of December 1826, or to infringe or interfere with any Treaties of Commerce or Navigation entered into by His Majesty with any Foreign State or Power.

And the Right Honorable Viscount Goderich, One of His Majesty's Principal Secretaries of State, is to give the necessary directions accordingly.

(Signed) JAMES BULLER.

[Original.]

*Letter from LORD CHARLES SOMERSET to ROBERT WILMOT
HORTON, ESQRE.*

LONDON, 48 LOWER GROSVENOR STREET, 30 April 1827.

SIR,—I have the honor to transmit to you Copies of such Documents as I have by me, in refutation of some of the allegations contained in Sir *Rufane Donkin's* published Letter to Earl Bathurst, to which you have called my particular attention. These documents are numbered from 1 to 10, and are as follows :—

No. 1. Copy of my Note to Sir Rufane Donkin, dated 1st December 1821, stating that if Sir Rufane had any official communication to make, I would meet him at any time he would appoint.

No. 2. Sir Rufane Donkin's Note (original) to me, dated Cape Town, 1st December 1821, stating that he had no official communication to make to me.

No. 3. Extracts of a confidential Letter, addressed by me to Earl Bathurst on the 17th of May 1817, representing the inadequacy of the means of defence on the Frontier, by the recall of the Dragoon Regiment.

No. 4. Minute (original) submitted to me by Lieutenant-Colonel Bird on the 1st of August 1822, in which he recommends the measures to be adopted for remedying the mischief occasioned by the Storm of 1822.

No. 5. Copy of my Letter to Mr. William Parker, dated 5th August 1822, declining to peruse his Memorial to Lord Liverpool.

No. 6. Copy of my letter to Mr. Parker, dated 20th September 1822, declining to receive communications which contained reflections upon Lieut.-Colonel Bird.

No. 7. Copy of my Letter to Earl Bathurst, marked "Private," dated 1st of October 1822, relative to Mr. Parker, and showing that I had declined going into Mr. Parker's complaints, as they had been previously transmitted to his Lordship.

No. 8. Copy of a Letter addressed to me by His Majesty's Commissioners of Inquiry on the 17th of June 1825, stating

that Newlands was nothing more than a plain, unembellished and proper Residence.

No. 8. Copies of a Correspondence between the Commissioners of Inquiry and myself, under date 28th October and 25th November 1825, with six Enclosures ; from which it will appear that it was Colonel Bird who, under Sir Rufane Donkin's Administration, introduced the system of issuing Money upon account for particular Services, without Warrants from the Governor.

No. 10. Copy of a Memorandum left by me with Sir Rufane Donkin, relative to Mr. Buissinne, on my quitting the Cape in 1820.

I beg also to refer you to the following Documents in Lord Goderich's office, which contain further refutations of allegations comprised in that Letter. They are numbered from 11 to 16 ; viz.

No. 11. My Despatch to Earl Bathurst, dated 30th June 1822, with five Enclosures ; showing that I did not reverse Sir Rufane Donkin's, but that it was Sir Rufane who had reversed my plan of defence of the Frontier.—(With two Plans.)

No. 12. My Despatch to Earl Bathurst, dated 5th August 1822, relative to the Storm.

No. 13. My Despatch to Earl Bathurst, dated 27th December 1824, explaining the application of the Money (£35,000) which was drawn on account of the Storm.

No. 14. My Despatch to Earl Bathurst, marked " Separate," dated 24th December 1823, with nine Enclosures, explaining the extent of what was done for Mr. Parker.

No. 15. My Letter to His Majesty's Commissioners of Inquiry, dated 18th September 1824, with my Observations on the Memorial of the Albany Settlers ;—three Enclosures.

No. 16.—My Despatch to Earl Bathurst, dated 3rd April 1826, containing refutations of the principal points of Allegation in Sir Rufane Donkin's representations on my Administration ;—with thirteen Enclosures. I have &c.

(Signed) CHARLES HENRY SOMERSET.

[Original.]

*Queries for LORD CHARLES SOMERSET on SIR RUFANE DONKIN'S
Letter to EARL BATHURST of 6th April 1827.*

Does Lord Charles Somerset acknowledge that he told Colonel Bird that he did not recollect having seen any despatch of commendation addressed to Sir Rufane Donkin ?

Reply. Lord Charles Somerset recollects Colonel Bird mentioning to him that he had received a letter from Sir Rufane Donkin relative to the despatch in question, but he cannot at this moment call to mind what his reply was. But whatever it was, it was the impression on Lord Charles's mind at the moment. Lord Charles recollects subsequently finding a memorandum of having returned a despatch to Sir Rufane Donkin, which it was and is strongly impressed on his mind he communicated to Colonel Bird. Lord Charles never attached any importance to the subject of this despatch not coming to hand, feeling always persuaded that Sir Rufane Donkin could at any time obtain an authenticated copy at Lord Bathurst's office of any paper which had been addressed to him. Lord Charles disclaims in the most unequivocal terms any intention whatever of withholding or impeding the transmission of the despatch, and was not aware until his papers were looked up previous to his departure that he had any copy of the despatch amongst them.

Does he acknowledge that he said that he would undo all that had been done in his absence, that all was wrong ?

Reply. This has already been answered in Lord Charles Somerset's despatch to Lord Bathurst dated 3rd April 1826.

Did Lord Charles refuse the recording of the testimonials in the *Gazette* ?

Reply. Lord Charles Somerset had cogent reasons at the time for objecting to the insertion of these papers in the *Gazette*.

Does Lord Charles Somerset admit that he directed the Inspector to omit all cases of Grants which had been made to Officers who deserved consideration ?

Reply. Lord Charles Somerset admits that he directed the Inspector to omit all the Grants that had been made in the regular manner or to persons who *deserved consideration*.

What were the reasons which induced the omission of Colonel Somerset's grant ?

Reply. Colonel Somerset's grant came under the denomination of those who *deserved consideration*. Lieutenant Colonel Somerset's claims to consideration were that it had been customary to make a grant of land to Deputy Landdrosts, particularly when there was no government building to reside in. Lord Howden had made a very valuable grant to Lieutenant Colonel Somerset's predecessor Lieutenant Colonel Fraser, of upwards of 10,000 acres of most fertile land, exclusive of a lot of ground to build on in Graham's Town. Sir Rufane Donkin also made very extensive and valuable grants, amounting to 6,750 acres, to Captain Trappes, provisional magistrate at Bathurst, containing the principal building timber in the vicinity of Graham's Town. Previous to Lieutenant Colonel Somerset being appointed to the Deputy Magistracy at Graham's Town, a very excellent grazing farm called the Grobbelaar's Kloof was attached to the appointment. Lieutenant Colonel Somerset ceded this in order that it might be appropriated to the grazing of the horses of the Cape Corps, in lieu of which he was to receive 300 Rixdollars annually, but which he never took. It was afterwards granted to Mr. Rubridge and others, who received 10 Rixdollars per diem for the grazing of the Cape Corps horses thereon. Lieutenant Colonel Somerset underwent great labour and fatigue in locating the settlers, having at one time been out 63 nights on that duty without even a tent to sleep under. The whole emolument of the Deputy Landdrostship, exclusive of the Farm which Lieutenant Colonel Somerset never enjoyed, was £150 per annum. The land at the time it was granted to Lieutenant Colonel Somerset was certainly of very insignificant value. It has been a source of ruinous expence to Lieutenant Colonel Somerset, who never can at any time hope to redeem the money he has expended on it. The grant was only 250 morgen or 500 acres of complete waste ground. When it is considered that Lieutenant Colonel Somerset relinquished the valuable farm of Grobbelaar's Kloof, which had been heretofore attached to his appointment, without accepting any compensation, that his grant was not more than a tenth part of those which were given to persons holding

similar situations, that no building belonging to government was appropriated for his habitation, and that the land itself was totally valueless unless a considerable sum of money were expended upon it, it could not with justice be included amongst grants to which there were objections.

Does Lord Charles admit the fact of the additional grant to Colonel Somerset as here stated ?

Reply. Lord Charles is not aware that any ground was subsequently granted to Lieutenant Colonel Somerset, but he can take upon himself to assert that if any were added the full value was given for it.

Does he admit that any mistake whatever was made in the report which induced Sir Rufane Donkin to make the grant to Colonel Somerset ?

Reply. Lord Charles never heard of any mistake being made in the report to Sir Rufane Donkin until he read it in the paragraph which has given rise to this query, and he does not believe that any mistake was made in the report.

Does Lord Charles Somerset admit that Mr. Rivers is fairly described in the passage on page 39 ?

Reply. Mr. Rivers was introduced by his brother in law the late Henry Alexander Esquire the Chief Secretary to the Government to Lord Charles Somerset. Mr. Alexander described Mr. Rivers as a gentleman exceedingly well educated and who might be employed with advantage to the public service should opportunity offer. The imposing the duties on the wharf and the appointing a Wharf Master was a measure originated and submitted to Lord Charles Somerset by Lieutenant Colonel Bird, who also submitted Mr. Rivers' name for the appointment. Lord Charles Somerset approved of the measure, because he conceived that the revenue would be considerably benefited by it, and as Lieutenant Colonel Bird justly observed, the public would willingly pay the small impost for the convenience afforded them. Lord Charles expressed himself obliged to Lieutenant Colonel Bird for the suggestion of the measure.

Does Lord Charles Somerset admit that he never sought for or received any kind of communication from Sir Rufane Donkin respecting the general course of his measures ? In other words, does he admit the accusation preferred against him in page 49 ?

Reply. In reply to this query Lord Charles Somerset annexes copy of a note which he addressed to Sir Rufane Donkin on this subject, and Sir Rufane Donkin's answer in original.

Is Lord Charles Somerset in any degree prepared to admit that there was anything like a "plea" in his remarks on the Storm in question?

Reply. A reference to Lord Charles Somerset's despatch to Earl Bathurst dated the 5th August 1822 brought home by Major Cloete and to the details submitted by that officer to Earl Bathurst fully explain the necessity for applying for this sum. A copy of a minute submitted to Lord Charles Somerset by Lieutenant Colonel Bird shews that Lord Charles Somerset was completely borne out by Lieutenant Colonel Bird in his opinion of the necessity of this pecuniary aid. A detail of the distribution of the sum drawn in affording individual relief was transmitted to Earl Bathurst in Lord Charles Somerset's despatch of the 27th December 1824, by which it will appear that the sum drawn did not exceed £35,000.

Does he admit the statement as to the expence of Newlands and of the Government House in Cape Town?

Reply. This being a query upon figures, Lord Charles does not feel competent to answer it without having the accounts before him to refer to. But as Mr. D'Escury asserts in the article alluded to that the Buildings at Newlands are various and endless, Lord Charles begs to refer to a letter addressed to him by the Commissioners of Inquiry on this subject, dated 17th June 1825, which fully refutes Mr. D'Escury's vague and groundless assertions.

Does he admit in any degree the correctness of the statement respecting the horse Orville, of which nothing is known by the Colonial Department?

Reply. The whole of this is a gross misstatement and distortion of fact.

Does Lord Charles Somerset admit the statement made in page 77 to be correct?

Reply. The Landdrost of Albany communicated to Lord Charles Somerset that the inhabitants in Albany had complained that altho' their land was almost exclusively calculated for grazing land, and that other parts of the Colony possessed

[illegible]

which he refused at that moment £900 sterling, and which he left unsold when he left the Cape. Lord Charles Somerset has not in his recollection what the value put on the bulls and cow was, but they were sold at the price fixed by Captain Trappes. With regard to the statement relative to the cow, she was brought to Newlands from the beach in consequence of the vessel not being considered sufficiently spacious to convey her with safety, and fed in the stable at Lord Charles Somerset's expense until a safe opportunity presented itself for sending her. With regard to the sums stated to have been credited to the farm, every one must know that unless the accounts of a farm are credited with the value of all the produce disposed of, it is quite impossible to ascertain what may be the profits or loss of an establishment of that kind. Lord Charles Somerset having given this explanation to the malicious and wilful misstatement of Mr. D'Escury, feels himself called upon to declare that in making the above arrangement, he was solely actuated by an anxious desire to promote the interests of the Settlers and Colony, and that with regard to any advantage which it is basely insinuated he was reaping himself, he experiences a heartfelt satisfaction in knowing that he made a sacrifice of personal advantage in making the arrangement he did.

Does he acknowledge that there was the slightest misstatement in the arguments which were brought forward for the encrease of the Colonial Corps ?

Reply. Lord Charles Somerset denies most positively that there was the slightest misstatement in the arguments which were brought forward for encreasing the Cape cavalry and decreasing the Cape infantry. He should be prepared to recommend the measure at this moment had it not been already adopted. His despatch to Earl Bathurst of the 24th of April 1817, by which it will be seen that he provided for the employment of 242 Dragoons on the Frontier, and extracts of a confidential letter to Earl Bathurst under date 17th May 1817, evince his opinion of the necessity of cavalry at the Cape.

Does Lord Charles admit that Newlands fell in consequence of the circumstances herein detailed ? Does he admit the fact of this apparent contract for £7000, as contrasted with an actual expense of £45,000 ?

Reply. Lord Charles Somerset does not admit the truth of either of these statements relative to Newlands.

Does Lord Charles Somerset admit that the Receiver General was threatened, or that anything like an unjust or illegal requisition was made to him ?

Reply. So far from any threat being held out to the Receiver General, it was the Receiver General who suggested the measure to Lord Charles, and who informed him that that course had been adopted in the repairs of the wharf under Sir Rufane Donkin at the suggestion of Colonel Bird. Lord Charles begs to refer to the papers between himself and the Commissioners of Inquiry on this subject.

Did Lord Charles Somerset ever accuse Sir Rufane Donkin or hear him accused of having lifted up his horsewhip ?

Reply. Lord Charles Somerset never accused Sir Rufane Donkin of having lifted up his horsewhip. Lord Charles informed Lieutenant Colonel Bird that a rumour had reached him that Sir Rufane Donkin had shaken his carriage whip whilst speaking to Lieutenant Colonel Somerset from his curricule, when Lieutenant Colonel Bird assured him that no such occurrence took place, as he was at the time in the curricule with Sir Rufane. Lord Charles from that moment dismissed from his mind any idea that such an occurrence had taken place.

Does Lord Charles Somerset think that it is possible that any man will come forward on his oath to state that he (Lord Charles) had decided on the ruin of Colonel Bird on account of this published letter to his son ?

Reply. So far from feeling any ill will towards Colonel Bird for the letter he addressed to his son, Lord Charles expressed his thanks most warmly to Colonel Bird for having written the letter and always considered it a most excellent and friendly letter.

Does he admit that it is inconsistent for a Comptroller of the Customs to be Assessor to the Court of Appeal for the reasons stated on page 104 ?

Reply. Previous to the appointment of Mr. W. Bird to the Assessorship, Lord Charles consulted the Chief Justice as to the legality as well as propriety of appointing an Assessor who was not a Barrister, and Lord Charles stated to the Chief

Justice whom he had in contemplation to appoint, and it was only in concurrence with the Chief Justice's opinion that there was no objection to it, that Lord Charles made the appointment. And with respect to Mr. W. Bird himself, Lord Charles asserts that his education and habits of business peculiarly fitted him for the situation of Assessor, and it is to be recollected that there was another Assessor to assist the Court.

Does he admit that he recommended Mr. Buissinne strongly to Sir Rufane Donkin? Does he admit that Mr. Buissinne owed him 26,000 Rixdollars?

Reply. Previous to Lord Charles Somerset's quitting the Cape in 1820, Colonel Bird solicited him to recommend Mr. Buissinne to Sir Rufane Donkin, saying that he had been so good as to hold out an expectation that something should be done to improve Mr. Buissinne's situation when he was appointed to a Seat in the Court of Justice. Lord Charles said that he had already mentioned the subject to Sir Rufane, when Colonel Bird requested Lord Charles to leave it with Sir Rufane in writing. Lord Charles accordingly left a memorandum with Sir Rufane to that purport, which also contained his wishes respecting other persons. Lord Charles never had any money transaction with Mr. Buissinne. The gentleman who managed Lord Charles's pecuniary concerns took from a third person a Mortgage Bond of Mr. Buissinne's on a Sum lent on mortgage, to which there were 7 or 8 collateral securities, which of course rendered the solvency of the principal a matter of indifference, and of which Lord Charles believes Colonel Bird was one, but it was a business transaction of which Lord Charles had very imperfect knowledge, nor does he recollect the precise amount of the Mortgage Bond.

Does Lord Charles admit that he himself corrected Mr. Parker's petition?

Reply. Lord Charles Somerset has no recollection of ever being in a situation to correct any memorials of Mr. Parker. The documents Mr. Parker submitted to Lord Charles frequently contained expressions so vehement that Lord Charles was compelled to decline receiving them, and he may have pointed out the expressions which he thought indecorous and objectionable. The letters addressed by him to Mr. Parker under date 5th August and 20th September 1822 will shew the general

tenor of Lord Charles's intercourse with Mr. Parker. Lord Charles Somerset denies most positively that he had any other motive in recommending Mr. Parker to quit the Colony than the conviction that his ruin was inevitable if he stayed there. A reference of his letters to Earl Bathurst relative to Mr. Parker will shew that all the insinuations to the contrary are totally unfounded.

Does he allow that the expenditure quoted on page 112 was incurred for Mr. Parker ?

Reply. The statement of expenditure on account of Mr. Parker was fully answered in Lord Charles Somerset's letter to Earl Bathurst of the 24th December 1823.

Does he admit that Mr. Proctor had received a farm, specially under Lord Bathurst's orders, on the terms of paying 500 Rixdollars, and that this sum was reduced to 200 Rixdollars by Lord Charles Somerset's own orders ?

Reply. Without having the Documents and Reports at hand to refer to, the following is believed to be the precise state of this case : On the land being measured for Mr. Proctor upon which the rent of 500 Rixdollars had been fixed, a considerable portion of it was claimed by the owner of Alexanderfontein. Much altercation and many references ensued, when the local authorities were directed to report upon it and define the boundaries. The result was that the land was awarded to Alexanderfontein and the rent of the Bonteberg recommended to be reduced in proportion, which was sanctioned accordingly.

Does Lord Charles Somerset admit that any assurance in writing was given that Mr. Parker had not received countenance or support from himself ?

Reply. No such assurance was given, and Lord Charles believed most sincerely that Colonel Bird was anxious to get Mr. Parker to quit the colony. Lord Charles believes that Mr. Parker was totally ignorant of any coolness subsisting between Colonel Bird and Lord Charles. Nothing can be more unjust and untrue than the supposition that Lord Charles ever encouraged directly or indirectly any hostility on the part of Mr. Parker against Colonel Bird.

Was the Governor's Aide-de-Camp present when Mr. D'Escury was examined ?

Reply. Lord Charles Somerset believes that his Aide-de-Camp was present at one examination of Mr. D'Escury.

(Signed) : CHARLES HENRY SOMERSET.

30th April 1827.

[Office Copy.]

Letter from R. W. HORTON, ESQRE., to SIR RUFANE DONKIN.

DOWNING STREET, April 1827.

DEAR SIR,—I shall feel it necessary to lay on the table of the House of Commons, as soon as Parliament meets, this letter which I now have the honor of addressing you, as a commentary which is made necessary by your late publication.

You appear to complain of Lord Bathurst not having done justice, as between Lord Charles Somerset and yourself. I beg to remind you that on the 17th of June 1823, you expressed yourself to Lord Bathurst with reference to Lord Charles Somerset as follows :

“ If forced to do so I can and will at once astonish and shock your Lordship and cover him with utter ruin.”

On the 21st of June 1823, I wrote to you by Lord Bathurst's direction in the following terms :—

“ With respect to the charges which you have more than implied that it is in your power to establish against Lord Charles Somerset, Lord Bathurst feels that, after having received such an intimation, it is impossible for him to do otherwise than call upon you to communicate to him the substance of those charges, the nature and tendency of which, from the manner in which you have characterized them, his Lordship considers it imperative upon him to investigate.”

On the 23rd of June 1823, in reference to a letter of mine of the previous December, addressed to you at Rome, you expressed yourself as follows with respect to Lord Charles Somerset :

“ I did not see how I could do myself justice, without running so close to Lord Charles Somerset as almost to have the appearance of censuring him, which, of all things, I have ever wished to avoid. My sole aim and object have been, and still are, to preserve the good opinion which I flattered myself I had obtained of Earl Bathurst, but never, upon any account, to attack another with whom I have had so little personal acquaintance and concern.”

In answer to this I addressed to you in my letter of the 3rd July the following observations :—

“ With respect to the charges which you have more than implied that you are ready to prefer against Lord Charles Somerset, I have to inform you that Lord Bathurst in no degree relaxes from the determination which was expressed to you in my former letter. If, however, your request, instead of being directed to the point of that letter being returned to you wherein reference was made to the subject in question, had gone to the extent of a distinct retraction of those charges, Lord Bathurst, in that case, would not have thought it necessary to require production of them. But His Lordship cannot on any account consent to their being withheld if you are not prepared to communicate to him, that upon due consideration you have retracted them.”

On the 16th of July 1823, you answered that letter in the following words :

“ I have had the honour of receiving your letter of the 3rd inst., and I need hardly add that I have given it my most serious consideration. If by ‘ retracting ’ is meant that I shall unsay anything which I have said on the ground of my having advanced that which I feel not to be fact, it must be evident that no man having any pretensions to the name of Gentleman could take such a step, which would have the effect, in my case, of not only banishing me from that Society in which I have hitherto moved, but it would render me unworthy of the high rank I hold in the King’s service. But if I may take the word ‘ retracting ’ in its literal and grammatical sense, that of ‘ drawing back ’ that which I have advanced without due consideration of all the consequences, I have no hesitation in saying, in that sense, that I wish to retract the particular expression I used in my letter of the 23rd ultimo to Earl Bathurst ; for, besides a change of circumstances and considerations with which it is not necessary for me to trouble his Lordship, I feel, on due reflection, that my coming forward just now in any official way, on such a subject, would appear *like an ill timed interposition on my part between the Commissioners now at the Cape and the object of their enquiries ;* and I trust that this explanation will be satisfactory to his Lordship and will render unnecessary the urging of the other part of the alternative to which your letter points, namely my preferring ‘ charges,’ which I respectfully submit, no expression in my letter to Lord Bathurst pledged me to do, for it is not a mere verbal distinction when I say that there is a wide difference in fact and in essence, between an officer who had held a high public situation, as I had done, saying that he *could* make ‘ disclosures ’ connected with that situation to one of His Majesty’s Ministers, and that he *would* prefer charges against an Individual.”

You must allow me to say that this letter which I have last quoted, appears to me to express, *in the clearest and most explicit* manner, that you thought the Commissioners the

proper tribunal to which the consideration of these complaints should be referred.

Secondly, you have thought proper to publish a letter to an unnamed Member of Parliament, complaining of my having stated that feelings of hostility existed between Lord Charles Somerset and yourself, and you add that I subsequently explained that I had used the words "acrimonious feeling" instead of "hostility."

You then add that as it was very important to you that such an impression should not exist in my mind, you addressed me as follows, and you quote a letter from yourself to me, of the date of June 23rd 1825.

As you have thought proper to lay before the public in this instance in a pamphlet (for no person can doubt to whom you are referring) private letters addressed to me, I beg to tax your recollection with the following circumstances.

Are you aware that *I know* that subsequently to my employing the phrase "acrimonious feeling" in the House of Commons, you have employed with reference to Lord Charles Somerset, such expressions as the following in writing, "indignation at his tyranny and oppression, contempt for his meanness and peculation, disgust at his duplicity, a man who to the habits of a groom unites the morals of a swindler, this more than Kaffir," &c., &c. Is it possible that you can so far mistake the state of your own mind as to suppose that you are justified in holding me up to the world as an individual who has, without authority or justification, stated publicly that acrimonious feelings existed between yourself and Lord Charles Somerset? How can you reconcile it to yourself to have made such a statement? and do you not perceive the necessity to which I am driven of justifying myself for having made such an assertion in the House of Commons? Although I had ample grounds for my statement at the time that I made it, I am fully aware that the *particular* sentences here quoted were not employed until *after* my statement; but that circumstance only tends to strengthen the case on my side. If a man could so utterly deceive himself as to employ such phrases *at the very time* when he was arguing that no acrimonious feelings existed in his mind, you must allow me to say that, whoever he might be, he was carried away by sentiments of

ungovernable hostility and his better judgment, not only obscured but eclipsed, in the paroxysm of feeling which was unconsciously operating upon him.

Thirdly, you state that you “received at Rome a reprimand from — much more severe than any thing of the sort you ever got in the army, where, by the way,” (you add,) “we do not mince these matters either.”

In reference to this presumed reprimand, which I deny to have ever been made, I beg to refer to my letter of the 21st of June 1823, in which I thus expressed myself:—

“With respect to the answer which you sent to my letter of the 30th December upon the subject of grants of land at the Cape, I am directed by Lord Bathurst to request you would without loss of time prepare that more complete reply which you have stated that it was in your power to have given, but which you were induced to withhold. You must be aware that it is of extreme importance that such an answer should be received for your own sake, for if these letters are laid before Parliament, it will be unsatisfactory for me to have to state that the most conclusive part of your reasoning in defence of your own principle has been left for verbal explanation.

“The chief observation which Lord Bathurst directed me to make had reference to passages written by yourself. His Lordship is therefore naturally surprized that you should have attributed them to any other cause or source than to your remarks upon grants, which had made such observations necessary, and which were actually quoted in my reply. No retraction was therein made of those general expressions of satisfaction at your conduct at the Cape which Lord Bathurst had felt himself justified in conveying to you, nor was it intended to impute to you any sort of improper motive but simply to protest, for reasons so completely detailed, against the principle upon which, according to your own shewing, you had, in one particular branch, conducted the administration of that Government.”

I remain &c.

(Signed) R. W. HORTON.

[Original.]

Letter from MAJOR-GENERAL BOURKE to EARL BATHURST.

GOVERNMENT HOUSE, CAPE TOWN, 1st May 1827.

MY LORD,—With reference to Your Lordship’s despatch of the 24th March 1826 announcing the establishment of an Ecclesiastical Board in London, with whom the Clergymen of

the Church of England in this Colony were to correspond, I have the honor to inform Your Lordship that I have thought it right to desire the Reverend Gentlemen to forward their communications through the office of the Chief Secretary that they may be submitted to my inspection, my object being to obtain any useful information that such correspondence may contain, and at the same time to facilitate the objects of the Board by affording at once any explanation that may appear necessary for Your Lordship's information on the points in question, or by adopting any arrangements that may appear expedient. I have &c.

(Signed) RICHD. BOURKE.

[Original.]

Letter from J. C. HERRIES, ESQRE., to R. W. HAY, ESQRE.

TREASURY CHAMBERS, 2nd May 1827.

SIR,—The Lords Commissioners of His Majesty's Treasury having had under their consideration a Report of the Commissioners of Audit on two letters from you dated the 27th January and 28th February last, relative to a claim made by Mr. D. Cawood, a Settler at the Cape of Good Hope, for the balance of a sum of money awarded to him by a Court of Enquiry held at Graham's Town, for loss of Property occasioned by an explosion of gunpowder, I have it in command to acquaint you, for the information of the Secretary of State, that My Lords have directed a copy of the said Report to be transmitted to the Officer commanding at the Cape, with an authority to him to direct the remainder of the sum awarded to Mr. Cawood to be paid to him out of the Military Chest; and I am at the same time to acquaint you that My Lords are of opinion that it is more regular that the same should be paid at the Cape than that his agent here should receive the same. I am &c.

(Signed) J. C. HERRIES.

[Original.]

Letter from MR. BISHOP BURNETT to VISCOUNT GODERICH.

BROWN'S HOTEL, WESTMINSTER, *May 2nd 1827.*

MY LORD.—As it is highly probable that the retirement of Earl Bathurst from office may induce a very different policy with regard to colonial abuses I think it a duty to your Lordship to inquire whether the same view is continued to be entertained of my case with reference to the misgovernment of Lord Charles Somerset in his capacity of Governor of the Cape of Good Hope before I proceed farther in my endeavours to obtain redress from Parliament.

Although Mr. Wilmot Horton has cruelly misrepresented me both in the House of Commons, and elsewhere, I am inclined to ascribe his conduct in this particular rather to the gross delusion practised upon him by the Commissioners of Inquiry, than to an unworthy motive. Still, I must take the liberty of deprecating any conclusions drawn from the opinions entertained by that gentleman, equally as from the Report in question, which, upon sworn testimony is proved to be a compilation of falsehoods.

As my sole desire is to obtain redress for the unwarrantable persecution and the grievous losses I have sustained at the hands of Lord Charles Somerset, so have I been actuated by no hostile feeling to his Lordship, or desire to trouble His Majesty's government in the course I have hitherto pursued ; and if that dispensation of impartial justice so proverbially neglected in the Colonial Office during the administration of Earl Bathurst, is now resumed, I am quite certain that I shall have no further occasion to look to Parliament for redress.

I beg to claim your Lordship's early attention to this letter, and I have &c.

(Signed) B. BURNETT.

[Office Copy.]

Letter from VISCOUNT GODERICH *to* MAJOR-GENERAL BOURKE.

DOWNING STREET, LONDON, 3rd May 1827.

SIR,—The Bishop of Calcutta being about to proceed to India, I have considered it desirable to make arrangements for enabling that prelate to touch at the Cape of Good Hope for the purpose of conferring confirmation on the British youth of the Colony, but as his stay there will necessarily be very limited, and it will not, therefore, be in his power to visit those distant districts of the Colony in which the British Settlers are principally located, I would suggest that you should cause it to be notified to all those whom it may concern that the Bishop may be expected to leave this Country for the Cape in a month or six weeks from the present date, and when the period of his departure shall have been finally fixed, I shall not fail to give you notice thereof. I am &c.

(Signed) GODERICH.

[Office Copy.]

Letter from R. W. HAY, ESQRE., *to* MR. JOHN FOURNIER.

DOWNING STREET, 3 May 1827.

SIR,—Having laid before Viscount Goderich your letter of the 25th instant, I am directed to refer you to the last communication which was addressed to you from this Department on the subject of the Grant of land which you were desirous of receiving at the Cape of Good Hope; and I am at the same time to add that His Majesty's Government cannot undertake to defray the expense of conveying Labourers to that Colony.

I am &c.

(Signed) R. W. HAY.

[Original.]

*Letter from the REVEREND JAMES ADAMSON to
R. W. HAY, ESQRE.*

CUPAR FIFE, 4th May 1827.

SIR,—I some time ago received from the Revd. Dr. Brunton, Edinburgh, an extract of a letter from you in which you intimate that a passage to the Cape of Good Hope will be ordered for me at the expense of his Majesty's government. The object of my former application was to ascertain merely the time at which it would be convenient to appoint me a passage, and I intended to present myself in London as soon as possible with the proper documents. These have I presume been forwarded to you. Permit me again to request that you will give me early intimation of the period at which the vessel will sail by which you intend me to proceed. I am &c.

(Signed) JAMES ADAMSON.

[Office Copy.]

Letter from VISCOUNT GODERICH to MR. BISHOP BURNETT.

DOWNING STREET, 5 May 1827.

SIR,—I have to acknowledge the receipt of your letter of the 2nd instant.

In consequence of various Petitions which you have addressed to the House of Commons, the Report of the Commissioners of Enquiry at the Cape of Good Hope respecting your conduct there was laid last year upon the Table of the House, and printed. The question is, therefore, already in the hands of Parliament, and it is obviously impossible for me, under the circumstances, to do anything more than to draw your recollection to that fact. I am &c.

(Signed) GODERICH.

[Original.]

Letter from L. SULLIVAN, ESQRE., *to* R. W. HAY, ESQRE.

WAR OFFICE, 7th May 1827.

SIR,—In reply to your letter of the 21st ultimo, calling the attention of the Secretary at War to the recent re-appointment of Captains Aitchison and Ashe to the Cape Corps, with reference to the proposed reduction in the establishment of that Corps, I am directed to acquaint you, for the information of the Viscount Goderich, that arrangements have been made by which Captain Ashe will be removed to the 93rd Foot, and Captain Aitchison is replaced in his old situation as senior captain of the Cape Infantry.

It will be observed that this will render the establishment of captains perfect, according to the reduced strength of the Cape Corps, for it is in future to consist of three companies of mounted riflemen. I am, Sir, &c.

(Signed) L. SULLIVAN,

[Original.]

Letter from the BISHOP OF CALCUTTA *to* R. W. HAY, ESQRE.

LONDON, May 7th 1827.

DEAR SIR,—As Lord Goderich has signified to me His Majesty's pleasure that I should proceed to the Cape of Good Hope and to admit to confirmation such as may be desirous of it, let me request that directions may be sent to the minister officiating at Cape Town, that he should bring in writing with his hand subscribed thereto, the names of all such persons as he shall think fit to be presented to be confirmed, which may be delivered at the church on the day appointed for the administration of that ceremony. I have &c.

(Signed) J. T. CALCUTTA.

[Original.]

Letter from MR. HENRY ROWLES to R. W. HAY, ESQRE.

15 STRATTON STREET, 7th May 1827.

SIR,—I have the honor to enclose you a copy of the memorial of the widow of my brother Thomas Rowles presented to the Right Honorable Lord Charles H. Somerset, Governor of the Cape of Good Hope, praying for a pension for reasons therein set forth, and a copy of a memorial presented by my deceased brother on the subject of his loss from the alteration of the currency and a copy of his account with Messrs. Coutts as evidence of the fact of his loss as stated in his memorial. And I have to request the favor of you to lay them before the Right Honorable Lord Viscount Goderich.

I have nothing to add to the memorials except that my widowed sister mentions that pensions have been granted to widows of public servants in the Colony, viz.,

Mrs. Henry Alexander	.	.	.	.	English
Mrs. Sheridan	.	.	.	.	English
Mrs. Van Ryneveld	.	.	.	.	Cape
Mrs. Michael Gie	.	.	.	.	Cape

I have &c.

(Signed) HENRY ROWLES.

[Enclosure in the above.]

To His Excellency the Governor in Council, &c., &c., &c.

The Memorial of Elizabeth Christina Rowles, of Cape Town, Cape of Good Hope, Widow, humbly sheweth unto Your Excellency that

The Memorialist's late husband, Thomas Rowles, was appointed to the office of secretary to the Right Honorable the Court of Appeals for Civil and Criminal Cases in the Colony from the date of its original establishment, viz. 29th May 1807, at a salary of £480 sterling per annum, and continued to hold

that situation until the day of his decease, which took place on 20th January last, being a period of eighteen years and upwards, during the whole of which time he discharged the duties of the said office with the utmost regularity and greatest integrity, and without quitting the colony on leave of absence or otherwise for a single day.

And Memorialist further sheweth that on the day before mentioned, 20th January now last past, her said husband departed this life almost suddenly, by which lamentable occurrence Memorialist and her two infant children are deprived of those means of comfortable subsistence to the continuance of which they might have reasonably looked forward, her said husband being only forty-nine years of age at the time of his decease.

And Memorialist craves leave to add that her late husband was allowed and entitled to receive certain fees attached to the office of Secretary to the Right Honorable Court of Appeals from the date of his appointment until the year 1818, when such fees were taken from him and carried to the credit of Government, but no compensation was ever made to him in lieu thereof by increase of salary or by any other means whatsoever, so that in fact his income was considerably reduced for the last eight years. And your memorialist also begs leave to bring to your Excellency's recollection that her late husband sustained a very extensive and, to him, severe loss by the reduction of the currency, as fixed by the ordinance of 6th June last, as will fully appear from a copy of a memorial hereunto annexed, which was addressed to your Excellency, and containing an explicit statement of the individual hardship he was obliged to suffer through the adoption of that unexpected measure.

And memorialist humbly and confidently concludes that the combined circumstances of her extraordinary and unprecedented case are such as will induce your Excellency to take it into your favorable consideration, and that she may in consequence of her late husband's long and active services and for the reasons above stated (he being the Senior English Civil Servant in the colony as memorialist has been informed and verily believes) obtain such a pension as Your Excellency may recommend to be granted to her through the proper authorities,

and of which she so much stands in need, or that Your Excellency be pleased to take such other steps in the premises as to your Excellency shall seem meet and the nature of her unfortunate case require.

And your Memorialist as in duty bound shall ever pray &c.

(Signed) E. C. ROWLES.

CAPE TOWN, *February 23rd* 1826.

[Original.]

Letter from MAJOR-GENERAL BOURKE *to* EARL BATHURST.

CAPE OF GOOD HOPE, *8th May* 1827.

MY LORD,—I have the honor to forward the General Monthly Return of the Troops serving under my command to the 24th April 1827. I have &c.

(Signed) RICHD. BOURKE.

[Original.]

Letter from MR. HARVEY *to* R. WILMOT HORTON, ESQRE.

7 GREAT GEORGE STREET, *9th May* 1827.

Mr. Harvey presents his compliments to Mr. Wilmot Horton and informs him that he has been requested, with which he has complied, to present a Petition from Mr. Bishop Burnett, complaining of the conduct of Lord Charles Somerset. Mr. Harvey proposes to present the petition to the House tomorrow morning, but it is not his intention either now or upon a future occasion to take up the subject to which it refers, as this belongs to others.

[Office Copy.]

Letter from R. W. HAY, ESQRE., to MR. WILLIAM PARKER.

DOWNING STREET, 11th May 1827.

SIR,—I am directed by Viscount Goderich to acknowledge the receipt of your letter of the 2nd Instant, and to refer you to the communication which I some time since made to Sir Nicholas Colthurst upon the subject of your claims. I am &c.

(Signed) R. W. HAY.

[Original.]

Letter from the Navy Board to R. W. HAY, ESQRE.

NAVY OFFICE, 12th May 1827.

SIR,—With reference to your letter of the 3rd ultimo, we acquaint you, for the information of Lord Viscount Goderich, that we have appointed a passage in the *Security* to the Cape of Good Hope for the Revd. James Adamson.

Another communication will be made to you stating the time when he may embark. We are &c.

(Signed) H. LEGGE,
ROBERT G. MIDDLETON,
R. DUNDAS.

[Printed Copy.]

Important Additions to a Letter on the Government of the Cape of Good Hope, under LORD CHARLES SOMERSET, addressed to LORD BATHURST, by LIEUT.-GENERAL SIR RUFANE DONKIN.

As in the preceding Letter one of my objects has been to contrast my grants of land, and the principles on which these grants were made, with Lord Charles Somerset's proceedings in like matters, I give here two papers from Mr. D'Escury, the Inspector of Lands and Woods, which he delivered in to the

Commissioners of Inquiry : the first dated 29th May, 1824 ; and the second, 21st June, 1824.

I must again express my regret, that any thing connected with buying and selling horses should appear in these pages ; but when transactions of that nature are closely blended with grants of land, (on which subject I have been accused of no less than one hundred and twelve delinquencies,) I can no more disconnect the two in a paper published for my own justification, than Mr. D'Escury could when he was addressing His Majesty's Commissioners ; to whom he appears to have looked up with confidence, as to gentlemen of the most impartial justice and unbiassed judgment.

See letter from Mr. Charles D'Escury to the Commissioners of Enquiry, of 29th May, 1824, Volume XVII, page 368.

See letter from Mr. Charles D'Escury to the Commissioners of Enquiry, of 21st June, 1824, Volume XVII, page 501.

As I apprehend that no comment can be necessary on the above Letters, I shall make none, further than to express my hope, that if ever my 112 grants of land become subject to public scrutiny, my explanations and justification of those 112 grants may be compared with whatever Lord Charles Somerset may have advanced in explanation or contradiction of what Mr. D'Escury here advances.

To go on with the subject of grants of land, Colonel Bird, in one of his Papers, addressed to the Commissioners, tells them, that " Lord Charles Somerset had, during his administration, granted three millions of acres of land ; " and this, let it be recollected, not to *British Settlers*, sent out for the express purpose of obtaining land, and to whom I was ordered to make grants ; but to old inhabitants already settled, or to others neither settled nor thinking of settling ; amongst which may be cited a pretty large one to the Deputy Adjutant General, and which that officer is said to have received as it were with one hand, and sold with the other about ten years ago, under some peculiar circumstances.

Yet *one* of my delinquencies in the 112 is a grant made to Colonel Bird, (the *first* officer of the Colony, and an old and faithful servant,) of 783 acres, of which only 87 were cultivable, and about which a clamour was raised ; but, I do flatter myself that I have replied in full in the paper I have so often

alluded to, to this offence. Colonel Bird, in his paper addressed to the Commissioners, too, when speaking on this point, shows that all his predecessors *had* received grants of land, some of them of ten times and twenty times the value of what I gave to him.

Colonel Bird answers equally well the remarks made on a small building lot which I had granted to him in Cape Town, unasked for by him, as the former was ; but which, in spite of his answer and mine, has been *resumed*, on the ground that the spot was wanted for the public ! to which affirmation Colonel Bird has given a pretty decisive contradiction ; and which contradiction is borne out by the fact of the spot remaining unoccupied by, or for, the public ; as may be seen in Colonel Bird's communication to the Commissioners of 27th June, 1824.

In a Letter to me cited in the preceding pages, allusion is made to the dissensions which pervaded the Colony ; these dissensions are thus spoken of, and their existence confirmed in Colonel Bird's official answer to the Commissioners, dated 27th June, 1824.

If dissension has prevailed in this Society, and amongst the Civil Servants of this place, is not that dissension traceable to the disposition of him who has persecuted every one who did the duty of his station with alacrity during the Government of Sir Rufane Donkin ; with whom he had thought fit to disagree, as he had previously disagreed with every officer of rank and character who had been in this Colony ? And as I, from my station, was nearest to that officer, is it not a matter of notoriety, that the vengeance fell chiefly on *me* ? Will his confidential friend pretend to deny, that when I sought explanation of the cause of the Governor's alienation, he told me that my intimacy with Sir Rufane Donkin, and the visits I paid him in the Castle, were the cause of it ? If he do deny this, I will affirm on oath that he did so inform me.

This is followed by Colonel Bird's account to the Commissioners, of Mr. Parker having been sent to England by the Governor at the *Public* Expense, &c.

Lower down, Colonel Bird continues to the Commissioners :—

Until the arrival of Mr. Parker, and *until the support he received* was matter of public notoriety, religious animosity was unknown in this happy Colony ; from that period all has been discord ; and although we are now recovering from the religious antipathies which were during two years excited, the state of society here is terrific !

Lower down in this official paper, is a confirmation of the fact I have before advanced ;—

Lord Charles Somerset has in the course of his administration, granted three millions of acres of land in this Colony.

I have before remarked, that none of this immense territory was to new Settlers.

In another paper to be laid before the Commissioners, but of which I have only an abstract, is a detail of the circumstances of Lord Charles Somerset having cancelled a whole set of warrants, in consequence of the rate of exchange having altered, and ordered a new set to be made out ; by which process a considerable number of Rixdollars was added to the Governor's salary, and by consequence taken out of the Colonial Treasury. Perhaps, under any circumstances, to cancel a set of warrants *actually made out*, to take advantage of an alteration in the rate of exchange, would be thought a strong measure ; but in this case it was done in the face and defiance of a most explicit Regulation of the Lords Commissioners of the Treasury, which directs, that the Governor's, and other Civil Salaries, shall be paid at the rate of exchange calculated on the average of the three last days of the *lapsed* quarter ; but the exchange having varied in the beginning of the *current* quarter, the warrants, as I have said, were cancelled, and new ones made out according to the then more favourable rate of exchange in the *current* quarter. I mention this as an additional proof of the way in which the revenue of the Colony was dealt with.

This fact can be established by the Colonial Paymaster, and I think I may add, by Mr. P. G. Brink, now residing with Lord Charles Somerset as his Private Secretary ; only I should wish Mr. P. G. Brink * to be examined on oath on this point, in order to save him the pain of establishing such a fact against his Patron on any thing short of absolute compulsion ; but the thing was notorious at the Colonial Office at the Cape, and proofs of the *fact* may be had there in abundance, in case

* Mr. Brink is an honest man and faithful public servant. He seems not quite aware of all the duties he is brought here to perform. My belief is, that he will either break down, or grow restive, when he feels the whole load.—R. S. D.

Mr. P. G. Brink, who was then Chief Clerk, should have forgotten the circumstance.

I have put my hand on a Letter which affords a sort of general view of the Colony, from which I give the following :—

Extract from a Confidential Letter, dated September, 1823.

The state of our affairs is truly melancholy: the Settlers are dissatisfied and clamorous; and I regret to say that they have cause for complaint. The seasons have been unfavourable, which nothing could have averted, but the measures which have been adopted in their regard, have not been in that fostering spirit which would have soothed some of the difficulties of their arduous undertaking. The truth is, that every thing Sir Rufane Donkin did was to be counteracted, and in giving way to this feeling, the comforts, the prosperity, and almost * the existence of the individuals have been sacrificed. Bathurst had been fixed upon as the county town of the new Settlement. It was in the centre of the locations, and close to the Kowie River—eight miles only from its embouchure. Near fifty families had established themselves in the rising town of Bathurst; many had expended their all in settling there. Two companies of infantry guarded them against incursions; and the Civil Magistrate was already provided with a sufficient dwelling to enable him to reside amongst them, and guide them in their occupations and undertakings. Sir Rufane Donkin had appointed Major Jones, a man of mild and conciliating disposition, to be Magistrate there; and all was working as smoothly as the disappointment from crops failing, could have left room to expect. Suddenly Major Jones was suspended—Bathurst nearly annihilated—and all the hopes of those interested in that place, crushed '*d'un trait de plume.*'† Mr. R.———, a man of a haughty, harsh, and unbending temper, and of an indolent disposition, was appointed Landdrost. All to whom Sir Rufane Donkin had shown the smallest favour were stigmatised as *Radicals*.‡ and oppressed by those petty acts of tyranny which are so easy to find an excuse for under such circumstances. But as if it was not enough to harass the Settlers in mind, the military protection from Bathurst was withdrawn, and they were left exposed to those inroads which, though in reality they have been less frequent than I ever remember on the border,§ would have amounted to scarcely anything, had the military protection been

* Almost!—alas, quite! for many of them perished from want and despair, in consequence of this system of persecution!—R. S. D.

† This Gentleman has been obliged to have recourse *here* to a French expression, as more analogous to the mode of doing the thing than any English expression we have for such proceedings.—R. S. D.

‡ RADICALS—*because* recommended to my care by Lord Bathurst, and protected by me!—R. S. D.

§ Six or seven Settlers were, however, murdered by the Kaffers; and, perhaps, twenty times that number ruined by the loss of their cattle and property.—R. S. D.

left in the centre of the locations. In like manner Fredericsburg,* which was a post in advance, was of necessity abandoned, because the military protection, of about thirty men, was withdrawn from it. The locators could not attend to their occupations, and guard themselves against their wily neighbours at the same time, and the whole of them left their locations, and retired to Graham's Town. Another measure which has dispersed, and is, in fact, dispersing the unfortunate Settlers, is the establishment of a volunteer militia, a measure as unnecessary as it is obnoxious—unnecessary, because there is more than sufficient military on the frontier for the purpose of protecting the Colony,† *provided the military be used with energy and discretion*; and still more unnecessary, because in our own old institution of *Commando*, we have a readier and more efficient arm wherewith to oppose the predatory incursions of the Kaffers. But it was expedient to give Mr. R———— an additional salary for his services, and 20000 Rixdollars per annum were granted to him as Commandant of the Albany levy! The frontier Landdrosts, *at no antecedent period, were ever paid extra for these arduous duties*: neither Colonel Cuyler, nor Captain Stockenstrom, who, in 1819, were eight successive months in the field, ever thought of claiming extra pay for doing the duty of their station; but Mr. R————, who, as there is a Commandant of the *Military* on the spot, *can never be called upon to direct the operations, as the other Landdrosts have been, and still are*, is to receive this additional pay for services he has *not* to execute; while the poor Settlers, who are dragged from twelve to eighteen miles to drills and field-days, are not remunerated in a single farthing. No wonder, then, that every post brings applications for leave to quit the Albany District, which is already thinned of more than a half of the original Settlers, and which will soon be what it was in 1818, an uncultivated desert.‡ Then will the improvident and great expenditure now going on, or completed in that district, (without sanction, I believe,) be duly appreciated. . . . Among the papers which have been sent to you—you will find the approximate expenditure alluded to, to amount to 392,000 Rixdollars,§ which is no small sum in the state of our affairs; for I regret to say, that we owe the Commissariat at least as much more, without any chance, or means, as far as I know, of meeting the claims against us. For the first time, then, since I have known this Colony, are we so considerably in arrears, that we cannot be extricated without help from Home; and I am sure, this will not be given. From whence, you will ask, can this

* Fredericsburg, which had not cost one shilling to the Colony, or to England—but which had been a saving.—R. S. D.

† During my two years' government, I had no Kaffer invaders. My military cordon, and other arrangements, effectually prevented incursions of any consequence.—R. S. D.

‡ And thus, above £200,000 *expended* on this object by England, and the Colony, is *wasted* and lost!!—to say nothing of the human misery inflicted! —R. S. D.

§ This was written in 1823. This amount has been considerably augmented since.—R. S. D.

have proceeded? The reply will be easy, though perhaps longer than you will like. I shall pass over the extravagant expenditures at Newlands, and other personal accommodation, including Groote Post, the Government Cottage, and the Marine Villa, the outlays on which are kept from public sight, by the grossest infringement of the Treasury Regulations; but which expenditures have attracted much public notice here. And the extravagance of the Cape Corps, and the *misrepresentations* which have caused its present establishment to be sanctioned, have contributed mainly to the accumulation of our debt, which I must add, will increase; for our revenue is not sufficient to maintain that almost useless corps. If the arguments were examined which Lord Charles used on the subject of the Cape Regiment, previous to 1819, it would be seen, that he repeatedly urged the reduction, on the grounds, that it was too expensive for the Colony to maintain it—that it was injurious to the country to take from it so large a portion of the free labouring population—and that the services of the corps were useless, except as expert guides, and tracers of Kaffer inroads.* What has caused the difference between the two periods? Is the Colony richer? This will readily be answered in the negative. But the augmentation was recommended *solely* to get the majority for the then Captain H. Somerset, and upon grounds which were not accurate, and known to be so, as I will now proceed to show.—&c. &c. &c.†

The Gentleman who sent me this paper, promised me the remainder of it; but I have never received it. The *grounds*, however, of the augmentation of the Cape Corps, were a *rumoured* Kaffer invasion, *originating in Cape Town*, which has been mentioned in the preceding pages, and sufficiently explained and commented on there.

The writer of the above Letter is quite ready, I am persuaded, to come forward and avow himself the author of it, at a proper time and season. In fact, it was drawn up for the purpose of being communicated to an official quarter; but circumstances, unnecessary to be entered on here, prevented this from being done.

The next Paper I come to is a Letter from the Commissioners to Colonel Bird, dated 21st September, 1825; and with it I find his Answer, dated next day, detailing the circumstances of Mr. D'Escury having *lost* a seat which had been promised him in the Court of Justice, *because* he would not write an official declaration and representation to the Governor, “that he, Mr. D'Escury, had occasion for the services of M. Mercier,

* This is very true—to these purposes, chiefly, the Cape Corps should be confined.—R. S. D.

† See the details above, in Colonel Bird's Communication to the Commissioners.

Lord Charles Somerset's valet, in the Office of Woods and Lands ;" instead of which, this honest, but uncourtierlike, public servant told the Governor, that " he did not want the man at all, and that the *creation of a new place* was not at all necessary ! " This bluntness appears to have *unfitted* Mr. D'Escury for a seat in the Court of *Justice* ! and the appointment which had been promised to him was now *refused* ; but, as all this will no doubt be brought before Parliament in the Commissioners' Report ; and, as moreover Mr. D'Escury has fully detailed, in his correspondence with the Commissioners, the disgrace he fell into owing to this mal-encontre with His Excellency's valet, I need not burden my pages with any thing more on this subject.

Finance.

One word here on Lord Charles Somerset's expenditure in the Barrack Department, paid by the Treasury of England. " Extract.—It was pointed out to Lord Charles after his return, that he had expended more in six months, on account of the Barrack Department at Newlands, (that is, the Governor's Villa,) than Sir Rufane Donkin had in *two years for the whole Colony.*"

I do not pretend to vouch for the accuracy of the above round assertion ; but a reference to Lord Charles Somerset's accounts and mine in the Treasury for the periods in question, will set the matter at rest in a few minutes.

COLONEL BIRD *and* HIS MAJESTY'S COMMISSIONERS.

Of the latter gentlemen I know nothing further than the general testimony of public opinion, in favour of their being men of high honour and independence ; I trust, therefore, that my placing the following facts together in a concentrated point of view, will not be considered as an intention on my part to throw any blame on these gentlemen. I make the record here as matter of history ; and, if these gentlemen should in the outset have come to some mistaken conclusions, they must be laid, not to the account of wilful error in these honourable persons, but to the effect of the atmosphere which they appear to have breathed on their first arrival at the Cape, and of the effects of which they were not themselves probably aware.

First, His Majesty's Commissioners on arrival, took up ~~their~~ residence at the Government House, and remained there a considerable time.

Secondly, They speedily announced from that House to Colonel Bird, then Secretary to the Colony, that they should hold no communication with him, but *through His Excellency*; and this line of conduct, they tell Colonel Bird, they adopt *at the Governor's suggestion*.

Thirdly, An aid-de camp of the Governor attended all the earlier Courts, if I may so call them, held by the Commissioners, on the part of His Excellency; to the great alarm, as Mr. D'Escury declares in a communication to the Commissioners, of the Colonists examined before those Courts; inasmuch as they saw the Governor represented there, "but nobody on the other side," to use Mr. D'Escury's phrase.*

Fourthly, Colonel Bird being at this time in office, and having access to all the public documents necessary to give full and complete information to his Majesty's Commissioners, he complains heavily to the Commissioners, that *while he was so in office*, and had such access to these documents, they, the Commissioners, put no questions to him; but, no sooner was he out of office, than they address what he calls twenty-seven interrogatories to him, on most important matters; and afterwards eleven more—in all thirty-eight.

To these thirty-eight interrogatories, Colonel Bird gives the best answers he can, debarred as he then was of access to his late office; and such was his intimate knowledge of the Colony, that from recollection he has furnished to the Commissioners in his Answers, a great quantity of useful information, as will be seen when this Correspondence comes before Parliament.

I shall only add to the above, that from some passages of the Commissioners' Report (which I have seen in part) on certain of my grants of land, the Commissioners *appear* (I make no assertion) to have received their impressions at the Government House;—should this be the case, I shall simply observe, that the question at issue between two Governors, namely, between Lord Charles Somerset and Myself, was, that he said I had committed 112 delinquencies in making 112

* A reference to some of the proceedings in our Star Chamber, will show the *effect* produced on witnesses by this mode of proceeding.—R. S. D.

grants of land ; and I, on the other hand, say they were all justifiable and proper ; and I have justified them I hope in my answers to Lord Bathurst ; but, I do not think that the accusing party was precisely the source to which the Commissioners should have gone (if they did so) for information on that subject ; and it will give me great satisfaction to see by their whole Report on these my grants of land, that they have given their opinions with *all the facts*, and *all my explanations* before them ;—but, if they came to their decision *before* they saw my answers to Lord Bathurst, I will say at once that justice will not, and cannot have been done to me.

In order to complete the Documents relative to the establishment of the Settlers, and the foundation of Bathurst and a new District, I subjoin my Proclamation on that subject, which was accidentally omitted in the First Edition :—

(See Proclamation by Sir Rufane Donkin, of 13th October 1820, Volume XIII, page 296.)

Before I conclude, I shall here recapitulate some of my measures, which Lord Charles Somerset either reversed or did away with ; but which he has been called upon to restore, as far as was possible, by orders from Lord Bathurst, I conclude, or which have been restored by the protecting hand of Lord Bathurst himself.

1. The Kaffer Fair.

2. The union of the civil and military authorities in one person on the Frontier, by the appointment of a Lieutenant-Governor—at, however, a very increased expense.

3. Attention and encouragement to the navigation of the Kowie River, at first suppressed, or at least discouraged.

4. The establishment of certain Custom House and other offices at Port Elizabeth ; and, I will add, the continuance of that, to me, Sacred NAME, which at one time it was attempted to obliterate ; an attempt to which I cannot advert without a shudder of Grief and Indignation ! but which the kind feelings of the Colonists towards me preserved, until communications from England fixed *that Name*.

5. The completion of the Light House, in Table Bay, which I had begun, and had announced by public advertisement at the Cape, and to Lloyd's ; giving navigators to understand, that it would be lighted on a named day ; but, on a plea of

economy, as I have been told, *with the expenditure at Newlands going on in sight of it*, this important edifice was *stopped* on my departure, and was not lighted for very many months after—whether any ships were lost or no, from having been told they would see a light after a given period on entering Table Bay, and not finding it, is more than I can tell.

These were some of my measures which were re-established, as I understand, by orders from England ; but the re-edification of the towns of Bathurst and Ferdericsburg, the restoration of the ruined hopes and properties of so many Settlers ; and, above all, the restoration of life itself to so many who had perished under the hands of the Kaffers ; or, by the slower and more terrible process of destitution, sickness, and sorrow ; *this* was beyond the power of Man ! and we have still to deplore the fatal effects of those measures, out of which flowed this stream of human misery !

At the close of my first Appendix, I have said, that the feeling accompanying the publication of my Letter to Lord Bathurst, “ was most painful to me on many accounts.”

I did not, at *that* time, think it proper to say on what account I felt that pain—but I will now say, that it was chiefly caused by the recollection, that the exposition I was called upon to make, in my own defence, could not fail to give much uneasiness to two most gallant and truly honourable officers, relatives of the individual whose conduct I was obliged to bring forward in contrast with my own.

Had I expressed anything of this sort *at the time*, it might, by some base-minded persons, have been construed into an attempt on my part, to propitiate a powerful family, and to deprecate its hostility ; a proceeding which it would have been as unworthy in me to adopt, as it would have been beneath that noble family to notice. But now, after the political changes which have occurred since the publication of my Letter, I cannot be suspected of any motive other than the one I profess, namely—a desire to relieve my mind, by a declaration of the very sincere regret I have felt, at the pain I may have given to the two gallant and distinguished officers to whom I have alluded—with whom I once had the honour of being well acquainted—and of whom I will say, as the whole army will say with me, that although we have lately seen both of them holding

high offices—that although we still see them possessed of high military rank—and decorated with various marks of honour—neither one or the other of these noblemen has ever held an office—obtained a rank—or been honoured by a mark of distinction, which he has not gallantly won by decisive and acknowledged services in the field.

No two soldiers ever more literally acted up to the—

Et Gēnus et Prōavos et quæ non fecimus Ipsi
Vix ea nostra Voco.—*Virgil.*

They owe all to themselves—nothing to their family—and when the rolling on of years shall have placed the followers of the IMMORTAL WELLINGTON in the elongated vista of time—and when these two descendants of the Plantagenets shall, from the distance at which they will be viewed by those who shall read of them hereafter, be thrown back by the mind's eye almost into the same epoch as our Edwards and our Henries, and be referred, as it were, to the same historic Canvas on which are portrayed the chivalrous Knights of those days—I will venture to predict, that whoever may, in the future times to which I am pointing, embrace at a glance the scenes of our Chivalry for the last five centuries, he will not find two more brilliant names in all the rolls of their Heroic and Royal ancestors, than those of EDWARD and FITZROY SOMERSET.

Note.

While this second Edition is in the Press, I have received a letter from a Gentleman now in London, and who was formerly one of the Settlers in Albany, stating to me that I had fallen into a slight mistake in page 114, in regard to the sum of the 3000 Rixdollars paid to Mr. Parker, to enable him to go to England, of which transaction of the 3000 Rixdollars the gentleman who writes to me gives the following version :—

Mr. Parker was indebted to a Mr. Brath, of Cape Town, nearly to the amount of 3000 Rixdollars, which debt would have effectually prevented Mr. Parker's leaving the Colony ; to accomplish the discharge of this debt it was at first proposed by a gentleman *high in the service of Government* at Cape Town, to raise the sum required by subscription. This plan, however, was relinquished ; but, it being necessary that this debt should be arranged previous to the £250 being paid by Government for Mr. Parker's passage, it

was equally necessary, that Mr. Brach should have been called upon for payment; and it was at length agreed that the money should be advanced to the Colonial Bank, on Parker's and Brach's joint security, for a stipulated period, so as to allow Mr. Parker sufficient time to send a remittance from Ireland.

Long before the stipulated time had expired, poor Brach was called upon for payment; a part of the money was paid, and security taken from Brach for the remainder, which he was afterwards obliged to pay: so that by this manœuvre Parker was allowed to leave the Colony, and Brach lost his money.

Thus writes the Gentleman in question, in consequence of having read my Letter to Lord Bathurst: and he is producible at a short notice.

Whether the above statement makes the matter better or worse, I will not pretend to say: but as a mere matter of taste, I myself, if I were compelled to choose between the two modes, had much rather go openly, and put my hand into the Colonial Bank for 3000 Rixdollars, than drag forward the whole character of that Bank, and mortgage it in such a transaction: and then cause that Bank to break faith, by calling in the debt *before the stipulated time!*"

But I will here say a word on this and other inaccuracies, real or supposed, which may be imputed to my Statement. Let any censor, however rigid, provided he be honest, turn over my pages, and putting his finger in one place, let him say to me, "You do not here quite convince me." I would answer—"Strike the part out." Let him next say—"Here is a place in which, although the moral conviction may be strong, I do not think you have quite *Proved* the thing." I would again say, "Strike it out;" and so on I would say, as often as such a censor should object: and then, when he shall have scratched out perhaps the half of what I have written, I will boldly appeal to the *other half*, and ask—If enough did not remain to justify the opinions I had expressed, and the line I had taken in publishing this Letter?

R. S. D.

Postscript.

PARK STREET, GROSVENOR SQUARE, May 12, 1827.

Just as this Second Edition was printing, and on the point of being published, I have been told, that in all probability two observations will be made on my *Correspondence with*

the Colonial Office, which is to be laid before Parliament. The one charging me with *Inconsistency*—the other, with a *departure from a Pledge* I had given in that Correspondence.

And, first, as to Inconsistency.—The Inconsistency I am charged with, I am told, is this—That I have made it matter of complaint against Lord Charles Somerset, that he did not see me ; whereas he wrote me a Note, offering to meet me at the Colonial Office ; but that I said, I did not want to see him.

Now, let any body look at his Note, and what preceded it. During two whole years I had been heaping on Lord Charles Somerset's two Sons, and on all the friends he had recommended to me, every kindness in my power. When the frigate entered Table Bay, I felt quite sure that Lord Charles Somerset's first words to me would be the words of thankfulness and regard for all I had done for him. I expected a warm and cordial embrace—but, instead of this, the Staff Officer, whom I had sent on board to say, that my carriages were waiting Lord Charles Somerset's orders on the beach, and that dinner would be ready as soon as he and his family landed, was sent back to me without one word of answer !—no message !—no communication to me at all !—but simply an announcement, that Lord Charles Somerset would land early next morning. He did so land—and entering the Government House, while I was just going out of it to receive him, he sent me the Note which is printed at page 97.

To this Note I returned an answer, the copy of which, if ever I had one, I cannot now find ; but the substance and import of it was, that, as Lord Charles Somerset had put our meeting on the footing of *my* having any thing to say *to him*, and that if I had, he would meet me—Where ? In his own house ? No—in the Colonial Office !—that is—just as he would have appointed a meeting with a Dutch boor. I say, on receiving such a Note as Lord Charles Somerset sent me, after his conduct on the preceding day, what other answer could I give than the one I did ?—namely ; that, “ I had nothing to say to Lord Charles Somerset : but that if he had any thing to say *to me*, I would meet *him* at the Colonial Office.”

Could flesh and blood condescend to go down, voluntarily, to the Colonial Office, and crouch before this person ?

I am very glad I did *not* go thither—not that I should have crouched if I had gone. I am glad I did not go : and I feel confident that the world will think that I showed better tact and taste, by casting on the whole transaction the sort of smile I did, than I should have done by appearing MYSELF upon the stage, at such an Exhibition, and thereby giving it a dignity to which it had no pretensions : and which would have elevated it at once from the rank of Farce to that of Tragedy !

But, suppose my inconsistency *proved*—What then ? Does my Inconsistency in Park-street, Grosvenor-square, justify the wasteful and ruinous expenditure of the Colonial Revenues at Newlands ? Would my Inconsistency in Europe be a full set off against the destruction of a Colony in Africa ? Would my laying myself open to a charge of inconsistency, in the neighbourhood of Hyde-park, justify the laying open of the frontiers of Albany, and letting in the Kaffers, to murder our defenceless Settlers ? In a word—will making me inconsistent—or worse—will making me *black*, make Lord Charles Somerset *white* ? He who will reason in this way, must have learned his dialectics in a very different school from where I got mine ; and, should any thing of the sort be said, *my* inference will be—and so will it be of others—that *that* was all that *could* be said. And, if this be all, bad is the cause indeed !

And now for my Pledge—my broken Pledge. In a Letter, dated July 16, 1823, addressed to Mr. Wilmot Horton, I say,

I feel, on due reflection, that my coming forward, just now, in any official way on such a subject, [Lord Charles Somerset's Government,] would appear like an ill-timed interposition on my part, between the Commissioners now at the Cape of Good Hope, and the object of their inquiries ; and I trust that this explanation will be satisfactory to Lord Bathurst ; and will render unnecessary the urging of the other part of the alternative to which your Letter points ; namely, my preferring *charges*, which I respectfully submit *no* expression in my letter to Lord Bathurst pledged me to do : for, it is not a mere verbal distinction when I say, that there is a wide difference in fact, and in essence, between an officer who had held a high public situation as I had done, saying that he could make ' disclosures,' connected with that situation, to one of his Majesty's Ministers ; and that he would *prefer charges* against an individual, &c. &c.

Now the broken pledge, as I hear, is my having printed a Letter to Lord Bathurst in April, 1827, *after* having said, to

Mr. Wilmot Horton in July, 1823, "that my coming forward just now in any official way, on such a subject, would appear like an ill-timed interposition, on my part, between the Commissioners now at the Cape," &c. &c. I will confess that I am so obtuse, myself, that I cannot, in any possible way see either a pledge given, or a pledge broken; the words "just now," which are plainly written in the draft before me, of themselves show that my reservation was temporary, but if the words "just now" had *not* been used, a plain naked refusal to come forward and interfere with the Commissioners in 1823, while at their work, did not imply—never could imply a pledge not to interfere with them *four years afterwards*, in 1827, when their work was done—could I ever mean to engage, would any man of the commonest intellect ever engage, to be wholly silent while the Commissioners were weaving their almost Penelopean Web, which instead of four years in the manufacture, might have been forty? But, I deny there being any broken pledge at all, and I throw myself before the public on that issue.

Again, supposing I had given such a pledge as is, I hear, imputed to me; could *any* pledge, however strongly worded on my part, carry on its bosom the intention and promise that *however* I might be treated by the Colonial Office here—however browbeaten—however trampled on—that I was to bear all, and say not a word, *because* I had given such an imputed pledge as the above? Why if Lord Bathurst had shut the door of his office in my face the *day after* I wrote the above Letter, instead of doing it now, I would that hour have set about printing my statement as far as any Pledge was concerned.

Lastly—will any man say, that when I saw Lord C. Somerset preparing to go back to the Cape, I was still to suppress all I had to say of him—to suffer him to depart—and then to bring out my Letter when He was no longer here to defend himself? Had I done so, what would have been the opinion of every honest man of such conduct?

I may have been misinformed as to what has been *intended*, as the line of argument on the production of my Correspondence with the Colonial Office; but, I think I will venture to predict that anyone who shall have read this anticipated answer to

that supposed line of argument, will now forego the use of it.

As to the correspondence now moved for, it is singular that before I knew *what* the Honourable Under Secretary of State meant to move for, I had requested a friend of mine in the House of Commons to move for *that very correspondence* with the Colonial Office as a set off *against* the papers, whatever they might be, for which Mr. Wilmot Horton might move.

The talents of that honourable member are, we all know, considerable; and when I have to contemplate my own very humble abilities, placed in any thing like a conflict with his, I cannot help feeling some alarm at my wishing for the very same set of papers as my justification, which he has called for to inculcate me. He and I must certainly have taken very different views of that correspondence, and must have come to very different conclusions as to the effect its being laid on the Table of the House of Commons will produce; but the publication of them will disclose *one* fact at least, namely—that I have not been backward in laying before the Colonial Department a very considerable mass of information as to what has been doing at the Cape of Good Hope during the last six years; and that I have been ever ready to tell that Department, in the most unreserved way, all I knew of that colony—that I did so tell a very great deal of it, and that the only thing I refused to do, and always will refuse to do, was to bring forward “charges” in my individual capacity—a task no human being has a right to impose on me, and which no duty, moral or political, calls on me to take upon myself.

R. S. D.

[Original.]

Letter from MR. THOMAS WILLSON to VISCOUNT GODERICH.

BELMONT COTTAGE, STOCKWELL, 12 May 1827

MY LORD,—With reference to a long correspondence which I have held with the Colonial department, wherein my right to a Grant of Ten Thousand Acres of Land at the Cape of Good Hope will be clearly established to the conviction of

Your Lordship ; having it in contemplation to return to that Colony, will you be pleased to inform me if I can be furnished with my Title deeds pursuant with the stipulations made to me by His Majesty's Government? Your Lordship's concurrence in this respect will be most gratefully acknowledged and appreciated. I have &c.

(Signed) THOS. WILSON.

[Original.]

Letter from CAPTAIN FRANCIS EVATT to EARL BATHURST.

PORT ELIZABETH, CAPE OF GOOD HOPE, 13th May 1827.

MY LORD,—Impressed with the highest feeling of respect for my country, its Lords and my Superiors, and aware that under our happy and well founded Government and Constitution the ear of those in power is never shut to the appeal of the lowest subject, founded on just cause, I have presumed to lay before your Lordship this my last and only effort of meeting with redress, in one which after perusing my humble petition and accompanying letters, may be found deserving of your Lordship's attention.

The Petition my Lord combines nothing but facts, I trust couched in language respectful, and if alone the letters I have had the honor to receive from His Majesty's Commissioners confirm my claim for remuneration in support of the laws of my Country, and particularly the violation of one, which to the honor and credit of the British Nation thro' whose determined perseverance in its wise and judicious measures the vile traffic in human flesh is now scarcely known.

The letters which I have now the honor to lay before your Lordship respecting my seizure of the *Steadcomb* are voluminous, yet my Lord don't embrace all the circumstances connected therewith, as I felt a delicacy in entering into a detail of matter which the material would only in this communication be infringing on your Lordship's time. His Majesty's Commissioners of Inquiry are however in possession of all, and permit me my Lord to state, that had I not been led to believe, from the strong language of their first letter to me, that it was their

intention to bring this important case to your Lordship's notice at the time, I should have presumed to have adopted this measure of seeking redress long ere this.

Inclosed in the Petition, my Lord, I make bold to offer for your Lordship's perusal the copy of a letter I had the honor of receiving from Lieutenant Colonel Scott, commanding the Frontier, and one from Lieut. Col. Cuyler who for years commanded also on this frontier, which I trust, with that character your Lordship may receive of me from those noblemen and General Officers referred to in my Petition, your Lordship will find me deserving of your notice and support, and as I presume His Majesty's Commissioners have by this time submitted to your Lordship returns of the Civil Servants of the Colony with the duties attached to each, your Lordship will find by these that during the period I have had the honor of being Commandant and Civil Resident of this station, I have not had a sinecure situation; to these were also attached the duties of Port Captain, Harbour and Beach Master, as well as superintendent of the embarkation and disembarkation of all troops and public stores and the settlers in 1820, without loss of life or property, the only salary forty six (£46) pounds per annum the first seven years, and an increase of forty-six more, in consequence of the additional duties I had to perform on their arrival; this circumstance I bring to your Lordship's notice, to show I have not been an unworthy or undeserving servant, had I, I should not have held my situation here now nearly fourteen years. I beg my Lord to apologize for thus troubling you and have &c.

(Signed) F. EVATT.

[Enclosure 1 in the above.]

To the Right Honorable Earl Bathurst, His Majesty's Principal Secretary of State, &c., &c.

The Petition of Francis Evatt, Captain on the retired list of His Majesty's late Cape of Good Hope (Illegible) Company, Humbly Sheweth.

That your Lordship's Petitioner has served His Majesty thirty-seven years, thirteen of that Military Commandant and seven Civil Resident of this station.

That your Lordship's Petitioner, on the 8th of October 1823, seized a vessel in Algoa Bay belonging to the house of Messrs. Nesbit & Co., of Cape Town, for illicit traffic, having a male child of twelve (12) years of age and a female of nine, purchased at and brought away from Mozambique by a Mr. J. A. Chabaud, supercargo, and F. Griffin, master of said schooner, they paying for each child the sum of (12) twelve Spanish dollars.

That your Lordship's Petitioner on 'making the seizure, brought the capture to the view of the Court of Circuit, then sitting at Uitenhage, who declined interfering, it not coming within their competency.

That your Lordship's Petitioner reported his seizure as per letter A to His Excellency the Governor, who was pleased to direct, as per letter B, the schooner being sent round to Table Bay, placing a Prize Agent on board her.

That your Lordship's Petitioner reported his seizure of said schooner, as per letter C, to Mr. W. W. Bird, Comptroller of Customs, and received for answer letter D, again wrote him letter E, and received answer F, with various other letters herewith transmitted.

Mr. Kekewich, judge of the Vice Admiralty of this Colony, being absent in England, your Lordship's Petitioner wrote Mr. Rowles letter G, (then acting), and not until two months after (altho' only 28 miles from Cape Town, Stellenbosch, to which place there is a post every week), he received answer H, wrote him again letter I, received answer K, finding the Prize Agent he sent round in the schooner to Table Bay forcibly turned out of her, the vessel released, no hearing or further notice taken of the case, the two prize Negroes taken from their purchasers, the Supercargo and Master, and *transferred* (Petitioner supposes by Mr. W. W. Bird) to the owners Messrs. Nesbit & Co., and every means used, as will appear by the replies of Mr. W. W. Bird, to make him believe his seizure was illegal, and in consequence, having given up all hopes of redress thro' those channels (the Vice Admiralty Court and Custom House), whose duty he conceived it was to take cognizance of so gross a violation of the laws against slavery, your Lordship's Petitioner wrote his agents in London, Messrs. McDonald & Co., to take the advice of Counsel, which they did, that of Dr. Lushington.

That Petitioner on receipt of Dr. Lushington's opinion wrote his agent in Cape Town, (Mr. Paton), to put the case into the hands of a Mr. Pingh, one of the Proctors in the Vice Admiralty Court, who declined interfering, again wrote him, he my Agent meeting a Mr. Binkton, also a Proctor, and an old acquaintance of your Lordship's Petitioner, to whom, having mentioned the whole of the transaction, he voluntarily took it in hand, but for what reason Petitioner knows not, after a lapse of some months declined advocating the cause, altho' every arrangement had been made between him and Petitioner's Agent for payment of the Law expences.

His Majesty's Commissioners of Inquiry having arrived in this Colony, your Lordship's Petitioner laid his case before them, with a copy of Dr. Lushington's opinion.

It would be needless Petitioner troubling your Lordship with copies of all his letters to those gentlemen, he therefore confines himself to laying before your Lordship those he received from them, in order to show their proceedings and their opinion as to the justness of his case, and that from the flattering language of their letters Petitioner had every reason to hope ere this of meeting with redress and a favourable issue to his exertions in support of the laws of his country; and your Lordship's Petitioner most humbly presumes to call your Lordship's attention to a paragraph of the very first letter he had the honor to receive from His Majesty's Commissioners of the 19th of September 1823. "Without pronouncing any opinion at present upon the nature of those circumstances that appear to have induced you to make the seizure, we cannot help expressing our approbation &c. &c.

. and again to the language of their letter of the 17th of September 1825, in which they place that vigilance upon a more general footing, "which it will be their duty to make upon the degree of security existing in the Colony," It would be presumptive Petitioner's saying how far that vigilance was met with support, it is for your Lordship to judge.

Petitioner humbly presumes to call your Lordship's attention to their letter of the 23rd of June 1826, by which it appears no report was yet made to your Lordship, altho' three years and a half has elapsed since their first communication to

Petitioner, yet buoying him up with hope and that he may expect to hear from your Lordship.

Petitioner also lays before your Lordship a copy of a letter from His Majesty's Commissioner (Mr. Bigge) to his agent in Cape Town of so recent a date as the 6th ultimo, a lapse of four years since the receipt of their first communication. Petitioner does not presume to say what the object of the mission of His Majesty's Commissioners to this Colony was, but thus far he feels confident that had a case of so much importance been submitted to your Lordship at the time it was brought to the view of His Majesty's Commissioners, it would have met with equal attention to the report upon the case of Mr. Huntley and others against Landdrost Cuyler, as well as many others which Petitioner has heard had formed the subject of immediate report to your Lordship.

That your Petitioner humbly hopes it will appear to your Lordship that altho' the time prescribed by Act of Parliament for bringing such cases forward may have elapsed, no blame can be attached to Petitioner, as under all the circumstances now submitted to your Lordship's view, he had every right to expect that through the favourable representations of His Majesty's Commissioners as expressed by them in their letters to Petitioner, his case *had* long ere this been laid before your Lordship.

That your Lordship's Petitioner on his seizure of the *Steadcomb* Schooner placed a guard of (12) twelve soldiers on board her, which with the crew consisting of (9) nine men he was obliged to victual for nearly three weeks, which with other expences as per account submitted to His Majesty's Commissioners, amounted to nearly two thousand rixdollars, and not yet being paid, Petitioner has suffered severe embarrassment.

Your Lordship's petitioner humbly submits to your Lordship the following statement of the value and amount of the Schooner and cargo at the time of capture, with his expences.

Schooner valued at	.	.	.	.	.	£2,000	0	0
12 tons of ivory sold in Cape Town	.	.	.	.	.	4,615	0	0
Return goods from Mozambique	.	.	.	.	.	2,000	0	0
Capture expences	.	.	.	.	.	138	0	0
Allowance by Act of Parliament for each child £100	.	.	.	.	.	200	0	0

£8,953 0 0

That Petitioner submitting this statement to your Lordship most humbly hopes it may not be deemed disrespectful or in opposition to the superior authorities of the Colony, and prays that, altho' the time prescribed by Act of Parliament may have elapsed, your Lordship will be pleased to take his Petition into favorable consideration and give such directions for the investigation of the case as your Lordship may deem fit.

That Petitioner being unknown to your Lordship, it is natural to conclude a reference to character necessary. Petitioner therefore presumes to refer your Lordship to the Right Honorable Lord Charles Somerset, Lord Caledon, Lord Howden, The Honorable General Grey, Lieutenant General J. S. Wood, Lieutenant General Cocket, and Major General Pigot, under all of whom your Lordship's Petitioner has served. And your Lordship's Petitioner as in duty bound will ever pray &c.

(Signed) F. EVATT,
Commandant and Civil Resident.

PORT ELIZABETH, CAPE OF GOOD HOPE, *May 13th 1827.*

[Enclosure 2 in the above.]

UITENHAGE, *October 8th 1822.*

SIR,—I had the honor of reporting the arrival of the *Steadcomb* from Mozambique in Algoa Bay. I have now the honor to state for the information of His Excellency the Governor circumstances of an important nature respecting that vessel, which has led to a detention of her in consequence of illicit traffic until His Excellency's pleasure is made known. On Thursday morning last the 3rd October the Captain of the *Steadcomb* being about to depart for the purpose of proceeding on her voyage, I observed a little black boy with him. Having inquired to whom he belonged and where from, was informed he belonged to the supercargo (Mr. Chabaud) of the *Steadcomb*, and was brought from Mozambique, where he the supercargo had purchased him from the Portuguese there for 12 Spanish dollars, and that the Captain of the vessel had a girl on board which he also purchased there for the same sum. I told these gentlemen that I conceived it was contrary to the laws of

Great Britain any traffic of that sort, and that I should be obliged to detain the schooner until I reported the circumstance to my superiors. In the mean time I placed a guard on board, and rode up here to report the circumstance to Colonel Cuyler and consult with the Court of Circuit now here. I also reported it to Colonel Scott, Commanding Officer of this Frontier. A Court of Landdrost and Heemraden was called to make inquiry into the circumstance, which was laid before the Court of Circuit, who declined interfering, but gave their opinion there was no ground for detention in consequence of the Master and Supercargo having produced certificates of the children being baptized and that they did not intend they should be made slaves, but were to have their freedom. To the opinion of the Court I beg leave to appeal, as I did not conceive baptism constituted freedom, and as to their intention there was only their bare word for it. I however told the Court and Landdrost that if they would give me copies of the proceedings and positive orders to let the *Steadcomb* depart I should do it, sending round a prize agent in her to Table Bay. But this the Court declined, and as I before stated would merely give their opinion that there were no grounds for detention.

From the situation in which I am placed here as well as conceiving it a duty I owed to my country in a strict performance of those required of me as well as in support of its laws and obedience to the Act of Parliament respecting the abolition of the slave trade, I trust that my conduct in this instance will meet the approbation of His Excellency the Governor.

With respect to the intentions of the Captain and Supercargo to give these children their freedom, they have a right of course to say so, but yet they make no report to me or yet does it appear they are entered on the log book of the ship. Allowing this was the case I conceive it would be leaving great scope and latitude for a traffic of that sort.

I have &c.

(Signed) F. EVATT.

Lieutenant-Colonel Bird, Colonial Secretary.

[Enclosure 3 in the above.]

COLONIAL OFFICE, 23rd October 1822.

SIR,—Having laid before His Excellency the Governor your letter of the 8th instant on the subject of the *Steadcomb* schooner which you have detained in Algoa Bay, I am directed by His Excellency to acquaint you that if you have any grounds for charge of illegal conduct against that ship they can be prosecuted here ; but that His Excellency is of opinion the vessel should not be detained at Algoa Bay. I have &c.

(Signed) C. BIRD.

Captain Evatt, Commandant, Algoa Bay.

[Enclosure 4 in the above.]

PORT ELIZABETH, 11th October 1822.

SIR,—I had the honor of writing you a few lines from Uitenhage on the subject of my seizure of the *Steadcomb*, but time would not permit my entering into as full a detail of the circumstances connected with that transaction as I could wish. I now take advantage of the *Albatross* sailing to place you in possession of them and my grounds for the legality of detention. The *Steadcomb* had been some days in this Bay and actually on the point of sailing without mention being made either to me or Mr. Dunn, Custom House Officer, about these two slave children, nor were they either mentioned in the report sent to me of the passengers or people on board, neither were they entered in the log book or any other public document connected with the ship, the supercargo and master merely presenting a certificate of baptism from a priest at Mozambique, which with their intention of making them free, they conceived the court of Landdrost and Heemraden and Court of Circuit would give a verdict in their favour. It actually was the case, for they gave it as their opinion that there was no ground for detention. However I told them I was of a different one. 1st. That I conceived from the express words of the Act of Parliament I was justified in what I had done, and that as I conceived it a military trans-

action I should appeal to this Court of Admiralty in which Court alone I conceived it could be tried, and also being military and amenable to the orders of Colonel Scott alone, I should not allow the vessel to depart without the express and peremptory order of the Court, the supercargo and the captain swearing to the value and extent of their cargo, and then I should send a prize agent round to Table Bay in her. This they refused. Now the grounds I go upon as to the legality of my seizing this vessel are simple. First that at a Portuguese Settlement there have been sold by the Portuguese two slaves for the sum of 12 Spanish dollars each, and purchased by the master and supercargo of an English ship for that sum. This must of course be considered as a traffic. Then in the next these children were carried away by force and contrary to the consent of their parents by said English people in an English vessel. This I conceive bona fide an act of inhumanity, and contrary to the intent and meaning of the Act of Parliament, as I never can for a moment suppose that any latitude could be left or any flaw in the Act to authorise a trade being carried on which was done away with as being inhuman and contrary to the law of nature. To what extent might not the slave trade be carried on under the pretence, the bare assertion of a shipper, that it was his intention these children should be free. Were they not torn from the arms of their parents notwithstanding their cries and screams? Why if these gentlemen intended to do a laudable and praiseworthy act, why not then and there set them free and delivered them over to their parents as such and out of the power of the Portuguese at any future period? This would I conceive have constituted freedom. I hope you will see my statement as sworn to before a Heemraad, and that in the general opinion given, if unfavorable to me, the whole circumstances may be more minutely inquired into than stated in the different papers forwarded which were taken down in secret by the Landdrost without my being present to bring forward many circumstances unknown and of importance. To make a long story short, what constitutes a traffic? The selling and buying. And what constitutes inhumanity? Taking away by force children without the consent of their parents. These people say an Indiaman some time ago took away five, and if inquired into

probably more instances take place of the laws being violated on the same score, namely *intention of making free*. I have &c.

(Signed) F. EVATT.

W. W. Bird, Esqre., Comptroller of Customs.

[Enclosure 5 in the above.]

OFFICE OF THE COMMISSIONERS OF INQUIRY,
CAPE TOWN, 19th September 1823.

SIR,—In acknowledging the receipt of your letter dated 10th ultimo and of its enclosures relating to your seizure and detention of the *Steadcomb* schooner, we beg to acquaint you that we have lost no time in possessing ourselves of such information as we were enabled more immediately to collect respecting it from Mr. Paton, your agent at this place, the Comptroller of Customs, and Mr. Rowles, who it appears was Acting Judge of the Vice Admiralty Court at the period of the schooner's arrival in Table Bay.

Without pronouncing any opinion at present upon the nature of those circumstances that appear to have induced you to make the seizure, we cannot help expressing our approbation of the vigilance displayed by you in giving support to the laws that have been passed for the abolition of the Slave Trade, and the satisfaction with which we shall report to His Majesty's Government upon the security which this vigilance offers against any successful attempt either to violate or to evade them within the limits of your present command.

It is our intention to address ourselves to the Landdrost of Uitenhage for the purpose of obtaining a copy of the proceedings and information taken before him on this occasion, and we beg to assure you that we shall feel obliged by your affording us any information that you may possess upon the subject, as well as any suggestion as to the mode of obtaining the declarations of the boy and girl respecting the circumstances of their removal from Mozambique on board the schooner, which we find mentioned in a recent communication from yourself to Mr. Paton. We have &c.

(Signed) JOHN THOMAS BIGGE,
WILLIAM M. G. COLEBROOKE.

Captain F. Evatt, Port Elizabeth.

[Enclosure 6 in the above.]

CAPE TOWN, *September 16th 1825.*

SIR,—We have the honor to acknowledge the receipt of your letter of the 23rd ultimo, in which you detail the difficulties and expenses that you have incurred in the seizure of the *Steadcomb* on suspicion of illegal importation of slaves.

We have had frequent conferences upon the subject with your Agent Mr. Paton, and have obtained from him copies of certain documents relating to the seizure and release of the vessel. We have not however been able to learn from that gentleman whether the Schooner's Log-Book was ever in his possession. We perceive from the statement of your prize Agent W. Barclay that he received an order from Mr. W. Bird to send to him this important document, but it is not stated by him whether it was actually sent, and to whom it was afterwards returned. We find it stated by you upon more than one occasion that in the Log Book no mention was made of the receipt of the two negro children on board ; and as we conceive that the production of the Log Book with a view to ascertain this circumstance, was a matter of the first importance in any prosecution of the vessel or Master in the Court of Vice Admiralty, or indeed in any other Court, we shall be glad to be informed by you whether you had inspected the Log Book with sufficient caution to be able to affirm with certainty respecting the omission above noticed, and that you would endeavour to learn from Mr. Barclay whether the Log Book was sent to Mr. W. Bird according to the order that he states to have been received.

We beg leave to represent to you that the Log-Book as well as the ship's papers should have been carefully sealed up by you and transmitted to the King's Proctor ; or, in the absence of any such official character, to the Deputy Judge of the Vice Admiralty Court. It is unfortunate that such a course was not taken by yourself or your Agent at Cape Town, who seems to have acted in the manner he thought most advantageous for your interests, after consulting with the persons to whom you referred him, as well as taking the opinion of the Fiscal. We also think that there is reason to believe

that consent was given, or expressed by him, to the release of the vessel.

In any future occurrence of this kind, we recommend you to bring the circumstances directly to the knowledge of the person filling the situation of King's Proctor, as we conceive that the cognizance of offences against the acts for preventing the illicit importation of slaves more properly belongs to the Vice Admiralty Court than to any of the local Tribunals.

Respecting the account that you have transmitted of your expenses, we have only to observe that it is at present unauthenticated, and that we are not aware of the reasons for your supplying rations to the soldiers placed on board the schooner during her stay in Algoa Bay, as we conceive that it is one of the Port services which at that station they are liable to be called upon to perform, under the ordinary allowance of their daily rations.

Should you fail in obtaining remuneration from the Colonial Government for the expenses you have incurred by making this seizure, we shall then consider the propriety of submitting your claims to the consideration of His Majesty's Government, but we have to request that in preferring your claims either here or elsewhere you will abstain from any statement implying that they have received our sanction. We have &c.

(Signed) JOHN THOMAS BIGGE,
WILLIAM M. G. COLEBROOKE.

Captain Evatt, Port Elizabeth.

(There are many other enclosures, but as they throw no additional light upon the matter, I do not give them.—G. M. T.)

[Original.]

Letter from J. C. HERRIES, ESQRE., to R. W. HAY, ESQRE.

TREASURY CHAMBERS, 16th May 1827.

SIR,—I have it in command from the Lords Commissioners of His Majesty's Treasury to transmit to you the copy of a Paper received from Lord Caledon, and drawn up by Mr.

repair the mischief, or do justice between individuals whose reciprocal contracts and engagements have been distorted and deranged; a return to the original standard, after any long continued depreciation, is injustice to one party, the sanctioning the depreciation is no less so to another. Perfect justice can be done to none, but the nearest approach to justice must be sought from the interference of the Sovereign power with such an equitable adjustment as known and admitted facts may facilitate the accomplishment of with tolerable accuracy and certainty. The depreciation at the Cape is stated by the Commissioners of Inquiry to have been manifested in the following progressively diminished value of the paper rixdollar in converting it into pounds sterling from

	s.	d.
1806 to 1810 at	3	6
1811 „ 1815	2	6
1816 „ 1820	1	10
1821 „ 1825	1	6

In this state of things Government have put a stop to further variation by substituting English silver money at the lowest, but also the then existing, rate of 1s. 6d. the rixdollar.

As a general measure there does not appear any ground for impeaching the wisdom of this decision. The great mass of small transactions had probably taken place with the reciprocal contemplation of that proportion of value, and under the impossibility of doing justice to all the measure adopted was perhaps the most equitable.

But if the current existing value was the fairest rate at which to fix the floating paper divided probably in small sums among the whole population, and also the great mass of recent transactions, it would be manifestly unjust to take the same proportion for old Bonds, contracts, and mortgages, where an entirely different valuable consideration had notoriously been given.

In the same manner as for daily current ready money transactions, the existing exchange of 1s. 6d. is presumed to be the value of the rixdollar in the contemplation of Parties dealing with each other, the average rate of the year in which more durable engagements by Bond, Mortgage, &c. were contracted must be presumed to have been reciprocally intended

by the Parties engaging in them. It seems that the Laws of the Cape afford an easy means of ascertaining and verifying the amounts and dates of those engagements, and that the Registers in 1823 exhibited an amount of uncanceled mortgages for rixdollars 17,353,000 and of Bonds par 936,500. It is between debtor and creditor upon contracts made in other times, and under other circumstances, that it becomes necessary to do justice, for it would be evidently as unjust that a debtor who had received the equivalent of 3s. 6d. should discharge himself by paying 1s. 6d. as it would be materially to alter the value of the currency from its actually depreciated state to its original standard for recent daily transactions.

It is with this view that all Governments not in a state of anarchy and revolution have always returned from the unfortunate state of a depreciated currency by establishing a scale for existing contracts, and this is submitted to His Majesty's Government as the only means of doing justice by the inhabitants of the Cape. For this purpose it is respectfully recommended :

That a Commission be appointed to establish and by authority to proclaim the average annual value of the rixdollar in each of the years from the period when the Colony was captured by us (1806) to the present time in the present current money.

To establish by Law that in all Bonds, Mortgages, or contracts for the payment of money in rixdollars, the rixdollar shall be taken and calculated at the average value of such rixdollar for the year during which the engagement was made.

That all engagements entered into anterior to 1806 shall be taken and valued by the average of that year. That all Bonds or engagements acquired by any party by purchase, or in exchange for any valuable consideration, shall be regulated by the date of such acquisition and not by any anterior date of original Contract.

That this Regulation should, of course, not affect such Bonds, mortgages, or engagements as may descend to any Party by inheritance or by will.

It is not apprehended that this proceeding can be attended with any difficulty or require any complicated form, if on consideration it shall appear to Government to afford the most certain means of doing justice between the Colonists at

the Cape. It is solely owing to a conviction that this is the case that it is submitted for adoption.

P.S. Although no good reason occurs why the Plan above recommended is not correct in principle and likely to afford practical justice, yet if any apprehensions are entertained that the advantage would be too much on the side of the creditor, some mitigation might be administered by one of the two following courses : viz. Instead of taking the average rate of exchange for the year when the Contract is dated, to take the lowest rate of the exchange for that year, provided that it be in no case fixed lower than 1s. 6d. the rixdollar. Or 2nd, after ascertaining the average exchange for the year, to take for the purpose of fixing that of any given contract a medium between such rate and that of the minimum of 1s. 6d.

For instance a contract made in the year when the exchange was at 3s. would be taken at 2s. 3d. as a medium between 3s. and 1s. 6d. If it be objected that this is an arbitrary settlement, it must always be recollected that the position of the case renders absolute and certain justice for all cases unattainable.

These possible modes of mitigation are however only suggested, if the application of the more strict rule shall be deemed too severe on one party.

[Original.]

Letter from MAJOR-GENERAL BOURKE to R. W. HAY, ESQRE.

GOVERNMENT HOUSE, CAPE TOWN, 17th May 1827.

SIR,—I have the honor to inform you that I received on the 3rd February last by the Brig *Brothers* Earl Bathurst's despatches numbered from 307 to 323 inclusive, the Brig *Patience* conveyed to me those from No. 325 to 330 inclusive, and a bag arrived on the 15th Instant containing the succeeding numbers up to No. 344 ; but as neither original nor duplicate of any letter bearing the number 324 has come to hand by any of the before mentioned vessels I have thought it right to

bring the circumstance to your knowledge, and to request that should any such dispatch have been forwarded I may be furnished with a duplicate or copy of it. I have &c.

(Signed) RICHD. BOURKE.

[Hansard's Parliamentary Debates.]

Administration of the Cape of Good Hope.

Thursday, May 17th 1827.

Mr. *Wilmot Horton* rose to move for certain papers relative to the Administration of the Cape of Good Hope, and particularly for the correspondence which had passed on that subject between the Colonial Office and Sir Rufane Donkin. He would have thought it unnecessary to have said much at present, since it would obviously be much better to postpone all discussion until the whole of the proper documents should be on the table of the House, had it not been for the publication of a pamphlet by Sir Rufane Donkin, which had been widely and very industriously circulated. He would, however, abstain from entering at that time into any discussion of the merits of the administration of the Cape, as the proper opportunity would be afforded, when the motion relative to the mal-administration of the Cape, of which notice had been given for the 18th of June, should be brought forward. But it was on account of the circulation of the charges against Lord Charles Somerset, by Sir Rufane Donkin, that he thought it highly expedient that the House and the public should immediately know the nature of those charges, and the situation in which they at present stand. Sir Rufane Donkin denied strongly that he was actuated by any acrimonious motives against Lord Charles Somerset and asserted that he (Mr. Wilmot Horton) was sorry in having said that he was so actuated; observing, that it was a new system of tactics, to charge those who complained of any malversation on the part of government officers, with personal hostility against the individual; whereas Sir R. Donkin, as he said, had always disclaimed all idea of personal

animosity. With respect to that matter, he had only to repeat what he had said before, that it appeared to him, that Sir R. Donkin had been actuated by acrimonious and personal motives against Lord C. Somerset ; and he was mistaken if Sir R. Donkin would not find himself obliged to own it. But what had all this to do with charges against Lord C. Somerset, or any other officer of government ? The only question was, whether the charges were well or ill founded, without any reference to motives ; but, if it should turn out that the accusations against Lord C. Somerset were ill-founded, Sir R. Donkin could not expect to escape from the consequences which might result from the preferring of such accusations. The House would please to observe, that on the 17th of June, 1823, Sir R. Donkin had expressed himself to Lord Bathurst to this effect, that he could make disclosures relative to the administration of Lord C. Somerset at the Cape, that would shock the noble earl, and lead to the utter ruin of Lord Charles. This communication, coming from such a quarter, could not be passed over without an investigation into the circumstances ; and therefore, under the direction of Lord Bathurst, he (Mr. Horton) had, on the 21st of June, written to Sir R. Donkin, informing him that Lord Bathurst called upon him to substantiate the charges which he had made against Lord C. Somerset, on account of the mal-administration of the Cape, in order that the matter might be thoroughly investigated. In answer to this, Sir R. Donkin had, on the 23rd of June, written to Lord Bathurst to the effect—that until he (Sir R. Donkin) was willing to make disclosures to the government on the subject of the mal-administration of the Cape, he did not wish to censure, or mean to attack, an individual, with whom he had little acquaintance. After the receipt of this communication, he again wrote to Sir R. Donkin, stating that Lord Bathurst still thought that the charges must be brought under investigation, and put to the proof, unless Sir R. Donkin meant to retract them. So that the government, and especially Lord Bathurst, so far from showing any disposition to stifle enquiry, most earnestly called upon Sir R. Donkin to proceed with his charges against Lord C. Somerset. Sir R. Donkin again wrote to the Colonial Office, stating in substance that he could not retract any allegations which

he had made, so far as the truth of them was concerned, as that would be unworthy of a gentleman, and of the situation which he held in His Majesty's Service ; but that he had no objection to say, that, upon further consideration, he would retract the particular words in which the charge had been advanced ; and Sir R. Donkin also added these words, " I feel, on due reflection, that my coming forward just now, in any official way, on such a subject, would appear like an ill-timed interposition on my part between the commissioners now at the Cape of Good Hope and the object of their enquiries, and I trust that this explanation will be satisfactory to Lord Bathurst, and will render unnecessary the urging of the other part of the alternative to which your letter points ; namely my preferring charges, in consequence of the turn which this matter had taken." The only course of proceeding which appeared most proper was, to send to the commissioners at the Cape of Good Hope all the information which they had been able to procure from Sir R. Donkin, or any other quarter, with instructions to investigate every thing to the utmost of their power. To this course Sir R. Donkin surely could not object, after having made the proceedings of the commissioners one of his reasons for not interposing, and, considering the conflicting charges brought forward, Sir R. Donkin complaining that Lord C. Somerset had upset his measures for the good government of the Cape ; and Lord Charles, on the other hand, complaining that Sir R. Donkin had, while his *locum tenens* at the Cape, upset his measures for the same purpose. The Colonial Secretary was of opinion, that this reference of the whole matter to the commissioners was the most satisfactory course of proceeding which, under the present circumstances, could be adopted. The commissioners had, accordingly, investigated the matter, and he had their Report now ready to be presented to the House. It would be recollected, that, in 1825, when charges were brought forward against Lord C. Somerset, it was the unanimous feeling of the House, that Lord Charles should not be allowed to remain at the Cape, but should be brought home to face his accusers, when they chose to come forward, and he had now come over. But the government, and Lord Bathurst particularly, felt themselves bound, in common justice, not to take any measures

against Lord C. Somerset, before the charges against him had been thoroughly investigated. Various charges had been made against Lord C. Somerset, besides that of Mr. Bishop Burnett, but nobody could be found to bring them regularly forward ; and, under these circumstances, it was fitting that the whole of the matter should be laid before the House, in some shape or other, that the question might be at length finally set at rest. With regard to the notice of motion for the 18th of June, he hoped the honourable member who had given that notice would state its object, with somewhat more precision than belonged to the general term mal-administration. He hoped the honourable member would take care to bring the whole matter before the House, and, in the mean time, state what was the specific nature of the motion which he intended to submit to the House. Sir R. Donkin had said, that some material papers had not been submitted to the commissioners. This was a mistake ; for all the material papers had been sent to the commissioners, both relative to the defence of the country against the Caffres, and every other matter about which the government had obtained any information. The Report of the commissioners would be laid before the House, with the opinion of Major Holloway, about the defence of the colony, which was a very material document. The honourable gentleman then commented on the impropriety of publishing official documents in this manner, in which the parties accused had no opportunity of reply. Among the charges brought against Lord C. Somerset by Sir R. Donkin, was one, that Mr. Parker had been sent back to this country, in order to criminate Colonel Bird and himself, and that the Colonial Department had lent itself to that purpose. To refute this charge, the honourable gentleman read the letter of Lord C. Somerset to Lord Bathurst, accompanying Mr. Parker on his return. In this letter, Mr. Parker was described as an individual who, from his disposition and turn of mind, appeared to be of all others the least calculated to superintend the work of emigration. Lord C. Somerset further described Mr. Parker as a man sanguine in all his views, prone to blame public measures, and an enthusiast in the cause of Protestantism. The candor and fairness of Sir R. Donkin was judged of by the fact, that when he had been twelve

months at the Cape, he stated in a letter to Lord Bathurst, that he had directed his efforts to follow up the plans of his noble predecessor, Lord C. Somerset. What was to be thought of a public officer capable of acting in this way? Was it his duty, if he then believed Lord C. Somerset's measures to have been wrong, to induce Lord Bathurst to think they were the best he could have selected as a rule for his own guidance? Sir R. Donkin complained, that he had received no information respecting the plans he felt it his duty to adopt in the colony, and that in consequence of Lord C. Somerset's personal conduct towards him, he was prevented from acting upon them. He complained also that Lord C. Somerset would hold no communication with him. Now, this was not a true representation of the case. Lord C. Somerset had requested a visit from him; but Sir R. Donkin replied, that personally he could have no intercourse with the noble lord. This was clearly a violation of his duty. As an official man, whatever his feelings might have been personally, he ought to have disregarded them on such an occasion as this. Yet his answer was distinctly, that he had no official communication to make. This note was dated 1st December, 1821. He had thus placed the Colonial Office in the unpleasant situation of being unable to do justice between the parties. The honourable gentleman said, that the papers he should present consisted of a variety of documents bearing on the general subject of the affairs of the Cape, and on the particular accusation which Sir R. Donkin had thought fit to publish to the world against Lord C. Somerset. Sir R. Donkin complained also that he had not been allowed an interview with Lord Bathurst. The fact was, that he had not asked for one in such a manner as implied that he had any circumstances to discuss, connected with the Cape of Good Hope. But he had claimed from that noble lord some mark of royal favour, in reward for his services as head of the government of that colony. Now, his government had lasted only a year and a half; and, during that time, he was but *locum tenens* and not absolutely the governor. Any body who thought that a period of service which called for a mark of royal favour, held a most exaggerated opinion of the estimate usually formed of colonial labours. Sir R. Donkin had received the approbation of the Colonial Office; but it was another of his charges, that

even this had been withheld from him. It was the constant practice, known to every clerk, that when any general officer, or other person, mislaid a letter of this kind, he was furnished with a private copy, which he substituted instead of the original until that could be obtained. The honourable gentleman declared of his own knowledge, that there never was an idea of withholding this letter which Lord Bathurst had transmitted, as a meed due to the services of Sir R. Donkin. There was, undoubtedly, no distinct proof that a private copy had been sent to him, but he (Mr. W. Horton) firmly believed such to be the fact. That charge, therefore, like the rest, was wholly without foundation. With regard to the general subject of the affairs of the Cape, he could assure the House, that the inquiry had been commenced in the spirit of improvement towards all the institutions in the colony. The commissioners had been sent out with that view; and, if their time had not been so much employed in investigating charges of a personal character, the delay that had taken place would have been avoided. The intention was that the improvements should be extended to all the range of departments, judicial, financial, and administrative; and they would, by this time, but for the cause to which he referred, have been more or less in operation. There was nothing connected with the welfare of the Cape which had not been delegated to these commissioners. As to the merits of Lord C. Somerset's government, or the comparative merits of that of Sir R. Donkin he would not say one word. The papers he was about to present would give an ample opportunity to the House to form a correct judgment on that subject. This step had become necessary, on account of the increasing charges brought by Sir R. Donkin, who had published a second edition of his pamphlet, with postscripts and other additions, which had been copied into the daily newspapers, accompanied by a multitude of comments. Sir R. Donkin had first brought an accusation against Lord C. Somerset; he had then denied that he was an accuser; and finally he had retracted the denial, and revived his accusation. Among these papers would be found the reports of the commissioners; and by them and the other documents, the House would be able to decide the question of the comparative merits of the two governments, as well as to judge of the course most proper to be pursued for the per-

manent welfare of the Cape. The honourable gentleman concluded by moving that the papers be brought up.

Mr. *Maberly* said, he should not exercise the duty of a friend to justice if, in seconding this motion, he did not put the House in possession of some facts, which they could not gather from the statement of the honourable gentleman. His gallant friend, Sir R. Donkin, had brought no accusation against Lord C. Somerset. He had been again and again invited to become a public accuser, and again and again he had refused. In the pamphlet he had published, he had not acted the part of an accuser; but he had been obliged to defend himself from a variety of reports in circulation respecting his own conduct; and his defence was taken to be an accusation of the noble lord. He could state positively that his gallant friend never intended to be an accuser, nor had offered himself to Lord Bathurst in that capacity. It was true, he had offered to communicate with Lord Bathurst, but not to lay accusations against anyone. In his pamphlet, Sir R. Donkin had stated his views as distinctly as possible. The honourable gentleman read some extracts in support of this statement. These passages, he contended, were at variance with the idea of his gallant friend becoming an accuser. His own character had suffered, and he felt bound to offer some explanation. In the beginning of the pamphlet, he stated, that he should not have adopted that course, if he could have obtained an interview with Lord Bathurst. In what he should further say in defence of his gallant friend, he should refer only to public documents. As evidence of the public merits of Sir R. Donkin, he would read the letter of approbation written to him by Lord Bathurst; the address of the chief justice, and other members of the judicial body, on his resigning his government; and some addresses, on the same occasion, from the merchants and principal inhabitants of the colony. He eulogized the measures of Sir R. Donkin's government. It had produced security, and was administered with economy. The moment he had resigned it, insecurity, murder, plunder, dissatisfaction, and, in fact, utter ruin ensued.

Lord *Edward Somerset* was not disposed to detain the House upon the present occasion, but he could not avoid expressing the satisfaction he felt in seeing the hon.

Secretary lay those papers on the table of the House, which would at last enable it to go into a full and fair investigation of all the charges which had been put forth against his noble relative; and, at the same time, tend to place the character of Lord C. Somerset in that honourable light before the public, to which he was satisfied it was entitled. The House would now, perhaps, be able to judge, as well from the observations of his hon. friend, as from the letters and extracts to be laid on the table, in what kind of a spirit, the accusations against his noble relation had been preferred. They would be able to judge, whether the spirit of the one had been rancorous, or whether the other had fulfilled his duty as a public accuser. The House would now be able to pronounce an impartial judgment upon the conduct of lord Bathurst and his noble relation. There were but two courses which lord Bathurst could pursue, under the circumstances. One was, to believe all the charges to be true, to the prejudice of lord C. Somerset; the other, to disbelieve them, and to call upon the accuser to substantiate them, if it was in his power. Lord Bathurst had called upon Sir R. Donkin to maintain his charges, and he had abandoned them. He would not trouble the House with any further observations upon the inferences to be drawn from this conduct. The proper time for remark must be when the House came to consider the nature of the charges; and he would, therefore, beseech the House not to allow itself to be influenced by those reports which had been, for years, circulated from all quarters, and reiterated in the public prints. When they had the whole of the papers containing these charges before them, he was satisfied they would see reason to exonerate lord Charles from the accusations which had been preferred against him.

Mr. *Freemantle* expressed his regret that the charges against the noble lord had been allowed to remain so long hanging over his head. When the subject was last before the House, he was both surprised and pained at hearing the then Secretary of State for Foreign Affairs state to the House that His Majesty's Government had sent out a commission to that noble lord to return home. What could the House or the country conclude from such a statement, but that there was a very strong case, in the opinion of the government, made out against him? It

was a thing very much to be regretted, that his honourable friend had not, two years ago, laid these documents upon the table of the House ; for if the case against the noble lord was so groundless that the facts of every petition to that House had, upon enquiry before the Commissioners, been fully disproved, he thought the noble lord had been very ill used.

Mr. *Hume* said, the question was not at present, whether they were to go into the enquiry upon the conduct of Lord C. Somerset, but whether certain papers should be laid on the table of the House. When the question of Lord Charles's conduct came to be discussed, he doubted not that there were many gentlemen ready to give their opinions, and state the grounds of those opinions. A great deal had been said of the conduct of General Donkin and he now hoped, that as the honourable gentleman had at last laid the correspondence on the table, he would consent to produce all the papers which might be wanting for a thorough examination of every thing connected with the question. He did not, he hope, misunderstand the honourable member who asserted that every petition which had been laid on the table of the House, implicating the conduct of Lord Charles, had been regularly sent out to the commissioners at the Cape, and made the subject of inquiry. Now, if that was really the case, it was not a little extraordinary that the House had never been put in possession of the result. The honourable member then defended the conduct of Sir R. Donkin, and declared his opinion that he had acted rightly in leaving the matter to the commissioners. If the honourable Secretary had read that letter in which Sir Rufane declared he had charges which, if preferred against Lord Charles, would cover him with infamy and ruin, he would find, that when he was asked to become the accuser on those charges, he at once said he could not retract what he had said, but he would rather wait and hear the result of the inquiry before the commissioners, than at once come forward in that capacity. That was in 1823 ; and it was no wonder, therefore, that the gallant officer expressed his surprise at the delay which had taken place.

Mr. *Brougham* said, he could not avoid making one or two observations upon some expressions which had fallen from honourable gentlemen, with respect to the course he had pursued. It

had been said, that he had brought a charge against Lord Charles Somerset, and that it had failed. Now, the fact was, that he had presented a petition; and he thought it due to the noble lord, who had on that occasion, as well as on every other, when the case had been mentioned, defended his noble relation with the greatest regard to honour and propriety, as well as with the greatest spirit; and it was but fair also to himself, to declare that he had never taken any step upon the case, except in presenting that petition. He had then stated most distinctly, that he desired not to be under the slightest responsibility for the veracity of anything contained in that petition, a fact of which he was the more certain, as he had, in addition to his own distinct recollection of the circumstances, even looked into the debates of the period, which he found to be, as they almost always were, exceedingly correct. He had then, he repeated, most distinctly guarded himself, in opening the charges of Mr. Bishop Burnett against Lord C., from being considered answerable for one tittle of the allegations; but he had, at the same time, felt himself bound to say, that he had seen the accuser, and examined him upon the facts, that he had, upon the strictest cross-examination he had been able to give him, adhered to those facts, that he had been consistent in his statements, and clear in his answers; and he had concluded by observing, without saying anything further, that all these circumstances were *primâ facie* evidences of the truth of the accusations, slender proofs, he allowed, but that still they went somewhat to support the allegations. The presentation of that petition was the only act of his connected with the question. As to the progress which the commissioners had made, or as to the failure of the charges, he knew nothing; nor did he wish without further information, to say anything of those commissioners. One of them, Mr. Bigge, had been a most esteemed friend of his for many years; and he certainly felt disposed to speak with respect of any commission which included him as a member. All he would say at present was, that if the charges had been, as it was said, disproved, then Lord C. Somerset had not been fairly dealt with. The charges ought not to have been left hanging over his head so long. If they were capable of being disproved, he would say at once that they ought to be disproved, or totally abandoned. Mr.

Bishop Burnett persisted in these charges, and had even given publication to several additional accusations ; and he agreed, therefore, most fully with the noble lord, that these charges ought to be either dismissed if they were false, or proved if they were capable of proof. It had been said, however, that he had pledged himself, on the occasion of that debate, to impeach Lord C. Somerset. The House had that night heard, that all the charges against Lord Charles had been inquired into, save one ; but that one he considered to be the only grave charge among all those preferred against the noble lord. The charge was no less than one of judicial corruption, the taking a bribe in a court of appeal, where he sat as a judge. It had been his opinion at the time, that the charge could not be true : he had said he could not believe it to be true. He had felt himself bound also to say, when the noble lord, on that occasion as on this, repelled the idea of such guilt, that the charge was to be found certainly in a parenthesis only of Mr. Bishop Burnett's statement, and did not form an integral part of the accusations. Now, the commissioners might have been right, or they might have been wrong, in saying that Lord C. Somerset was not guilty, and that the charges of Mr. Bishop Burnett had been disproved, but this charge had not been inquired into ; and, although he thought Lord Charles could not be guilty, yet, if he thought that the statement was founded in fact, it was his duty to impeach the person who had been guilty of such an offence. It had been his determination, then, to have the whole matter investigated, because he thought it due to himself, as well as to others ; but, within four or five days after that debate, he was called upon to appear before the privy council in his professional character, upon a case which very much surprised him. He had the brief, he believed, for ten days before, and previous to the evening of the debate ; but every one knew well, that it was not the practice of lawyers to look much into their briefs before the time they were called upon to argue them, and in the pressure of business, he had not opened it until the time he mentioned, he was therefore not a little surprised to find, that he was a counsel in the very cause which was founded upon that grave charge against Lord C. Somerset. It was an appeal cause from the Cape of Good Hope against a

decision pronounced by Lord Charles, sitting, by one of the ridiculous regulations which prevailed in the colonies and most of our foreign possessions, as a judge or chancellor, a regulation, by the bye, just as absurd as if the Duke of Wellington were to be made lord chancellor. The appeal was against the decision of Lord Charles as a judge, and he was counsel for the respondent. The appellant objected to the decision, among other things, upon the very ground stated by Bishop Burnett in his charges, that of corruption; and it was the part of the respondent to repel by every means in his power, the charge of that corruption. Now, he would put it to any honourable member to say, whether, while he was arguing in one place that there was no corruption in the case, and that Lord Charles was innocent, he could appear in another place, for the purpose of attempting to support charges proving him not innocent? He thought he was bound to keep separate the duties of the judge and the advocate, and he had therefore thought it right to cease from any further prosecution of those charges, while he remained in that condition. He now, however, agreed most fully with the noble lord, that the time was come, when they ought to determine whether Lord Charles was guilty or innocent, so that the House might be at once able to determine whether he was to be confirmed in, or dismissed from, the government in which he was placed.

The motion for the several papers was agreed to.

[Office Copy.]

*Letter from R. W. HAY, ESQRE., to the COMMISSIONERS OF
THE NAVY.*

DOWNING STREET, 18th May 1827.

GENTLEMEN,—I am directed by Viscount Goderich to acquaint you that as it is impossible Mr. Adamson should be prepared for his departure so early as Thursday next, it is his Lordship's desire that a passage to the Cape be provided for that Gentleman by some other opportunity, and that an early

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(Signed) R. W. HAY.

[Original.]

Letter from CAPTAIN W. F. W. OWEN to R. W. HAY, ESQRE.

H.M.S. Eden, Woolwich, 18th May 1827.

Dear Sir, It has come to my knowledge that professional opinions have been sought relative to the expediency and practicability of forming a breakwater in Table Bay of the Cape of Good Hope. I have therefore the pleasure to offer you an extract from my own journal on the subject, to be used either as a public document or for your own information as you see fit. I am not vain enough to attach any very great merit to the observations it contains, but such as it is it is at your service. I am &c.

(Signed) W. F. W. OWEN.

[Enclosure in the above.]

Extract from Captain Owen's Journal of the Cape of Good Hope.

All the descriptions of the Cape Colony are by landmen who, following the traces of the Settlers have given full descriptions of the land side; those for the sea face of the colony are neither so many nor so full as might have been wished, and it may be expected that some description of its outward feature shall be given in the course of this narrative, and perhaps in no part more properly than in this. As however our Survey has not been critical for any other points than for False and Table Bays and the intervening promontories, the remarks will be only such as can have resulted from a hasty view taken as sailing along shore.

The approach to the shore is no where dangerous for a Ship, and in every part has good anchoring ground, but the coast being open to the whole Southern Ocean, there is generally in both Monsoons a heavy swell on it; yet there are few points where boats may not land and put to sea, perhaps more than half the number of days in the year; and if properly constructed as those on the Western Coast of Portugal are, there can be no doubt but that a coasting navigation might be carried on along the whole line of coast; to this object, however, the Government does not appear to have turned its views, farther than the Establishment at Port Elizabeth and another at the Kowie, both on their own account only; and perhaps the country is not yet sufficiently populous to admit of such sea going population as that usually peopling the sea shores of Europe.

There appears however one source of gain surely open, the great bank of Agulhas is almost as rich in Fish as that of Newfoundland, we have never been becalmed or motionless on it without catching abundance. Salt is so plentiful as to be the principal drawback on the fertility of the soil. There is a market for salt fish in every direction, Cape Town, Bourbon, Mauritius, Mozambique, and indeed the whole coast thence, even to, and including all India. It is perhaps extraordinary too there is not a fisherman (seen by us) of European extraction, except the whalers, those who supply the Cape market with fish are either Malay slaves or freed men, and net fishing is hardly

known. This market would certainly consume more than five times, perhaps ten times the quantity of fish it now does, if it produced to meet the demand ; but to create a population of this sort, they must be freed from those oppressive Fiscal Laws and regulations to which the poor Malay fishermen are now subjected.

There are many points on the South coast of the Cape Colony which furnish good sites for fishing towns, whenever its population shall furnish a market for such produce. The Cape Peninsula has Hout Bay as well as Table and Simon's Bays, and Gordon's Bay. There is a large bay immediately to the South-Eastward of Cape Hangklip, which has escaped the notice of all navigators, until lately discovered by Mr. Walker, a Master in the Navy ; this presents the first situation, the next is Breede River, whose navigation for small merchant vessels has lately been opened by British enterprize and industry ; the eastern side of the peninsula of Cape Vaches offers no less than three good bays. Between Mossel and Plettenberg Bays is the river Knysna, which is also an excellent port, and within sight to the eastward of it Plettenberg Bay, from which to Cape St. Francis is the steepest and boldest part of the coast, and perhaps less capable than any other of such establishments ; but the Bay of St. Francis and Kromme River have few objections in point of site, and the whole contour of Algoa Bay is available for such purposes. Along the whole coast eastwards, and from Cape Padrão or Padrong, there are numerous situations eminently calculated for such an end.

All the rivers on this coast are barred. In the rainy season the freshes clear them out and carry their deposits to sea, in the dry season the heavy south-east winds throw them back again and dam them all up with sand bars ; over which according to local circumstances there is more or less water ; and as the highest rise nowhere exceeds five feet in ordinary spring tides and in most places not so much, they are seldom navigable for decked craft, and are often dangerous for boats of common construction. This feature is natural to all coasts similarly exposed to the ocean, and in this respect that of Portugal resembles it extremely. Yet on the latter much has been done whenever the industry of its inhabitants has been directed to the subject, on which an extract from a Portuguese work

describing those coasts shall be given in the Appendix, as being to the point ; so far as regards this most important colony, it cannot fail to be interesting, by exposing the simple hydraulic principles which may be applied to render its rivers navigable and useful for commerce.

As that extract speaks also of a method of turning the immense sand downs to account, which unproductively, not to say mischievously, cover a great part of the coast of Portugal, it may serve as a hint to the Government or inhabitants of the Cape to inform them that the great isthmus or plain near Cape Town is peculiarly adapted for such a plantation, and that the coasts have everywhere considerable bands of sand downs, whose motions may be arrested and they turned to profit in the way therein mentioned. Had the river Thames been left in its natural state to overflow and inundate the adjoining low lands every high tide, it is more than probable that its capabilities would never have been fully developed ; its channel would probably have been much shallower and more obstructed by banks and shoals, had not the property of its banks been vested in such a Society as the Corporation of London, whose interest it was and is to keep its banks in good order. The simple process of embanking a river and confining its current waters to a narrower channel, must have the effect of deepening that channel, and after a time of producing less deposit, but such a work could never be performed under ordinary circumstances where the population is not dense, and where the proprietors are not on the spot and greatly interested in its effects.

So with the rivers from False Bay to Delagoa Bay, until a population be located on their banks, and some portions of that population have an exclusive property and interest in the improvement of their navigation, they will never be rendered available for commerce, whether this be done by the plan of corporation, or other modes of associating for directing united labors to the same grand ends. It must be clear that the conductors must have a personal and more immediate interest than can exist in a general and distant government to direct the details of their operations with effect and profit.

To render rivers navigable and useful for commerce, their

banks must be sufficient to confine their current waters in their proper channel, the entrances when barred by shallows of sand or mud may be cleared by continuing their embankments by piers across the bars or shoals at the entrance, so that the channels between them may be swept out by the ebb tide. These piers or continuations of the embankments must continue to advance outward as the deposit to seaward of them may render it necessary. This mode of proceeding is dictated by the law of nature, such as have rapid and long courses effect a similar end imperfectly, by natural causes, of which perhaps the Mississippi is the most notable example. It must be evident that such ends as these must follow and can never be expected to precede population.

This may not be an improper place to offer a few words on the peninsula of the Cape of Good Hope, and of the improvements which seem to suggest themselves for Table and False Bays.

The greatest evil in the situation of the Cape Town is the insecurity of Table Bay as a port, and the temptations that this has offered to unprincipled men who may have insured their vessels at high premiums, to choose this spot for the termination of their voyages, for which their possible profits were perhaps fully insured. Of the numerous wrecks which have occurred in Table Bay and its vicinity, within the term of our voyage, not one of which, where we had the means of enquiring into the circumstances, but could be traced either to extreme ignorance, negligence, or design. The evil that this has done to that colony by such misadventures is incalculable, backed as they have been by the notorious incapacity of the Colonial Government to apply the proper remedies or modes of prevention, supposing that such incapacity may only arise from the causes before mentioned, viz.—that there is not a seaman attached to the Government in any shape whose opinions can be available for such good ends.

Many years ago it is said the Dutch had a plan for building a pier which should form Table Bay into a secure port, this idea has recently been revived, and several plans for that purpose have been suggested and made public, but none without objections. It need only be remarked that such a work is practicable at a reasonable expense, and would no doubt

sufficiently repay, were it and the navigation of the port made the property of a corporate body under well digested rule and government. Were this a place for such speculations, modes sufficiently adequate to perform this or greater tasks might be shewn.

But the more obvious or natural means of improving the commerce and importance of Cape Town, particularly, and of the colony generally, seems to have been smothered by the narrow policy of the residents in the town, and the very limited views they have taken of their own interests. This is to make Simon's Bay the port for the Cape instead of Table Bay, or rather to make it a port as available for Cape Town as Table Bay itself, so that ships might choose either, according to season or circumstances. At present the carriage of merchandize from one to the other by land, and by a road that can never be made perfect, is the strong objection, which is reasonably urged, but the remedy is evident and pointed out by nature. At Muisenberg there is a lake which in the rainy seasons opens its way to [the] sea in False Bay, and in all seasons lets its waters ooze through the outer sandy beach; from this spot to Cape Town, and into Table Bay is a dead level; a canal is almost half formed already by the salt river falling into Table Bay and Muisenberg Lake. Were a canal of communication between the two bays undertaken across the isthmus from Muisenberg, and piers projected at each end with Dock Gates and sluices to prevent the entrances from being choked, Cape Town would so rapidly increase in wealth as to be enabled sufficiently to enclose Table Bay; likewise by its own resources in a reasonable time, if necessary, the town would probably ere three generations pass away extend itself into an immense city spreading over the now desert plain that separates it from the rest of the colony; but before such ends can be produced a more rational Government must be established as well as extended Corporations, with well secured privileges, and inducements to invest property in such useful undertakings.

The first step which now appears necessary is to build a light house either on Noah's Ark, or on some as convenient spot for the safe navigation of False Bay, and which could be done by the Naval Department with a civil engineer to

direct it, for less than one thousand pounds, including all expenses. It will be needless in this place to recount the numerous fatal accidents that have occurred from the want of one, or to show by argument, how much the prosperity of Cape Town in particular, and of the Cape Colony in general, would be improved by it.

There are few places in the world which offer so great a facility for running a pier or breakwater into Table Bay, as the Lion Peninsula which forms it : the materials are produced on a high level, close to any spot from which it may be desired to project the work, and may be thrown into their required place with little physical labor if aided by mechanical skill.

Of its efficacy, however, much may be said. It has been supposed that the sand carried to sea by the high south-east winds would choke a port so artificially formed, and that the depths in Table Bay are now only preserved by the heavy north-west gales, delivering those deposits back again on the shore in the form of sand downs ; but if this were true, other and simple means might be found for keeping such a port clear ; first, by planting firs on the downs, and thus arresting the motion of those clouds of sand now carried to sea, and lastly, by the direct process of clearing it out.

It has been said, and with some justice, that to stand the furious beat of the surge, it must be a very massive construction, much more so than the breakwater at Plymouth. If a sufficient solidity were given to such a construction, its outer face and interstices might in process of time be covered and filled with sand, and the whole mass be thus strengthened by the action of the waters themselves.

Whatever objections are made against such a work, when done, if well done, rendering that part of the bay enclosed by it a secure port with south-east winds, they are on the face of them absurd. Such a work properly constructed, well governed and kept in repair would assuredly give a secure port in Table Bay.

(Signed) W. F. W. OWEN

H.M.S. *Eden*, WOOLWICH, 18 May 1827.

Continued.—However whether such a work is at this time necessary is another question ; my own opinion is already

given In the present state of the colony it can only be effected by Government at the expense of the Empire, it must be executed by jobbers and speculators whose interest it will be to increase the expense, and as no individual will have a personal stake of interest involved in it, the nation will be plundered of money, and the work if ever completed will be ill done. But a canal connecting False and Table Bays would not only answer all the ends of the great sea commerce better, but would have the effect of immediately peopling and fertilizing all the shores of False Bay and encrease the value of the lands beyond the Stellenbosch incalculably by rendering a long land carriage no longer necessary. The canal too would furnish a resource that would pay its cost, which a pier never could, and the former might be executed by an Associated Company, or corporate body, under an Act of Parliament or the King's Charter.

(Signed) W. F. W. OWEN.

18 May 1827.

[Original.]

Letter from D. M. PERCEVAL, ESQRE., to R. W. HAY, ESQRE.

CAPE TOWN, May 18th 1827.

MY DEAR SIR,—I write to acknowledge the receipt of your letter of the 18th December covering a duplicate of your former letter of the 27th of May last, which arrived here by the *Susannah* on the 19th of November last, too late to prevent the repetition of my previous error with respect to the mode of transmitting the minutes of Council, which I greatly regret on account of the trouble which it has occasioned to you.

I have communicated to General Bourke and to Sir Richard Plasket your desire that an official despatch should be addressed to Earl Bathurst, to repair the irregularity which my inadvertence has occasioned; and as I trust that you will receive my letters of the 15th December and the 5th of April, in which I have replied at length to all the topics embraced in your letter of the 27th of May, 1826, I will not now trouble you with any further observations on this subject.

It is very unfortunate; but the bags from Downing Street

almost always fall to the lot of the ships that make the worst passages.

(Will you have the kindness to give my best regards to Mr. James Stephen, and to say that I hope he has received the letters I wrote to him in October and November last.

I was very sorry to see by the late papers that Lord Bathurst had been ill in the winter, I hope that he is, now completely recovered.

Permit me the favour to make my best compliments and kind remembrances to His Lordship and to Lady Bathurst, and believe me, &c.

(Signed) D. M. PERCEVAL.

[Office Copy.]

Letter from R. W. HAY, ESQRE., to MR. THOMAS WILLSON.

DOWNING STREET, 19 May 1827.

SIR,—I am directed by Viscount Goderich to acknowledge the receipt of your application of the 12th instant, and to acquaint you in reply that his Lordship sees no reason for altering the decision which has been taken on your claims.

I am &c.

(Signed) R. W. HAY.

[Original.]

Letter from T. P. COURTENAY, ESQRE., to R. W. HAY, ESQRE.

ABINGDON STREET, May 19th 1827.

SIR,—Having received from the Board of Ordnance the enclosed demand for twelve hundred and fifty-one pounds four shillings and eleven pence three farthings, stated to be the value of stores issued by their storekeeper at the Cape of Good Hope to the Colonial Government, in the years 1823 and 1824, I have to request that you will obtain the directions of Viscount Goderich as to the payment of this sum. I have &c.

(Signed) T. P. COURTENAY,

Agent for the Government of the Cape of Good Hope.

[Office Copy.]

Letter from VISCOUNT GODERICH *to* MAJOR-GENERAL BOURKE.

DOWNING STREET, LONDON, 20th May 1827.

SIR,—With reference to my dispatch of the 3rd instant, I have the honor to acquaint you, that the ship which has been appointed to convey the Bishop of Calcutta to the Cape of Good Hope in the first instance is ordered to be in readiness for departure about the middle of the ensuing month, and I have only further to intimate to you with respect to the purpose for which the Bishop proceeds to the Cape, that it will be necessary that all those persons who may present themselves for confirmation should bring with them a certificate from the Ministers of their respective Districts that they are duly qualified to receive confirmation. I am &c.

(Signed) GODERICH.

[Original.]

Letter from MAJOR-GENERAL BOURKE *to* R. W. HAY, ESQRE.

GOVERNMENT HOUSE, CAPE TOWN, 20th May 1827.

SIR,—In compliance with the instructions contained in Mr. Wilmot Horton's Circular letter of the 23rd September 1823, I have the honor to transmit a brief summary of the separate points contained in the despatches addressed by me to Earl Bathurst and yourself during the year 1826. I have &c.

(Signed) RICHD. BOURKE.

(As all the dispatches have been given in this series, it cannot be necessary to copy and publish this summary of them.—G. M. T.)

[Office Copy.]

Letter from Viscount GODERICH to MAJOR-GENERAL BOURKE.

DOWNING STREET, LONDON, 22nd May 1827.

SIR,—I have the honor to acknowledge the receipt of your dispatch No. 15. under date of the 21st of February last. in which you suggest the expediency of publishing an annual Statement of the Revenue and Expenditure of the Government of the Cape. and I have to acquaint you that under present circumstances it will be proper to defer taking any measure of the nature of that which you propose. I am &c.

(Signed) GODERICH.

[Office Copy.]

Letter from R. W. HAY, ESQRE., to L. SULLIVAN, ESQRE.

DOWNING STREET, 22nd May 1827.

SIR,—Having laid before Viscount Goderich your letter of the 17th Instant, I have received his Lordship's directions to acquaint you for the information of the Secretary at War that the private Secretary of the Officer administering the Government at the Cape is allowed an Annual Salary of five hundred Pounds, and that it is not in his Lordship's Power to state the date of Lieutenant Van Ryneveld's Appointment to be private Secretary to Major General Bourke. I am &c.

(Signed) R. W. HAY.

[Office Copy.]

Letter from R. W. HAY, ESQRE., to JOSEPH PLANTA, ESQRE.

DOWNING STREET, 23 May 1827.

SIR,—Sir Richard Plasket having represented that he feels himself compelled by ill-health to retire from the discharge of the duties of Secretary to the Government of the Cape, and

Viscount Goderich being of opinion that Sir Richard Plasket's long and able services entitle him to the most favourable consideration, I am directed by his Lordship to desire you will acquaint the Lords Commissioners of His Majesty's Treasury that he proposes to instruct the Lieutenant Governor of the Cape to signify to Sir Richard Plasket that His Majesty is pleased to permit him to absent himself from the Colony for a period of two years or to resign his office altogether, in either of which cases he will receive an allowance not exceeding five hundred Pounds out of the Revenues of the Colony, until he returns to resume his office or until he is provided with some other suitable employment.

I am further desired to state that Lord Goderich proposes to take this opportunity of reducing the Salary of Secretary to the Government of the Cape from the sum of £3,500 to the sum of £2,000 per annum. I am &c.

(Signed) R. W. HAY.

[Original.]

Letter from MR. WALTER HAWKINS to R. W. HAY, ESQRE.

LONDON, 23rd May 1827.

SIR,—I beg permission respectfully to state to you that on the 13th and 19th Inst. I received from Mr. John Hawkins per the *Iberia* and the *Luna* from the Cape of Good Hope, communications handing me copies of the proceedings up to the 3rd March, in a case wherein claim was made on the Colonial Government at the Cape of Good Hope for payment of the amount of rixdollars 13,842. 5 (under its indemnity) proceeds of a sale of beads effected for this gentleman by his Majesty's late Vendue Master at Graham's Town, Mr. Willis, (who has not retired the Vendue Roll in consequence of insolvency), also claim for interest and expences arising out of this defalcation; the original of these documents would, I understand, be forwarded from the Cape of Good Hope to His Majesty's Government here per the *Hussaren* and the *Luna*, which vessels arrived some short time since, and I conclude delivered the documents alluded to. I have learnt with much pleasure since

recommended the erection of a Supreme Court of Civil and Criminal Justice by a Charter to be passed under the Great Seal.

I have the honor to enclose for your consideration the draft of a Charter which has been prepared under my directions for giving effect to the advice of the Commissioners.

It may be necessary to apprise you that I have not deemed it advisable to adopt implicitly the recommendations of the Commissioners ; I have thought it most convenient if not to dissent from their judgment at least to remit the complete execution of their designs to some future period when I shall have the advantage of further assistance and information from themselves. With a view to the immediate object of the present communication it is unnecessary to enter into a more particular explanation upon this part of the subject.

You will understand in general that my intention is to advise His Majesty to establish at Cape Town a Supreme Court with a Civil and Criminal Jurisdiction in all cases arising in the Colony. This Court would be held by four Judges, of whom the Senior would be termed the Chief Justice. I should however propose that one of the Puisne Judges should be continually detached from the Court, and engaged in performing Circuits throughout the very extensive Territory which is at present occupied by His Majesty's Subjects in the Colony. This duty would be divided among the three junior Judges in succession. The Circuit Judges would be assisted on their Circuits by Assessors to be chosen by the Governor from among the more respectable Inhabitants. It is intended that in all cases exceeding £100 in value, an appeal should lie from the Circuit Courts to the Supreme Court.

It is not at present proposed to make any material change in the ancient Law of the Colony excepting by the introduction of Trial by Jury in Criminal Cases and by providing for the examination of Witnesses viva voce and for conducting the proceedings of the Court in Public. There are of course many subordinate objects to which it is unnecessary to advert, more particularly as you will find them fully explained in the enclosed Draft.

As this subject has been for a considerable time in agitation, and as many circumstances concur to render the adjustment

of it a matter of serious and urgent importance, I am to request that you would at your earliest convenience take into your consideration the Draft which I have the honor to transmit to you, and report to me for His Majesty's information your opinion whether there is any objection in point of Law to carrying into effect by a Royal Charter the various purposes explained in this Letter and in the accompanying Draft or any of them, and whether the Draft in question is properly adapted for carrying those purposes into effect, and you will have the goodness to make such alterations in that Draft as may appear to you to be necessary or convenient. I have &c.

(Signed) GODERICH.

[Original.]

Letter from J. WYLDE, ESQRE., to R. W. HAY, ESQRE.

2 VERULAM BUILDINGS, 25th May 1827.

SIR,—I beg leave to acknowledge the receipt of your letter dated 24th Instant, intimating to me that I shall be expected to embark for the Cape of Good Hope in the course of next month.

Awaiting those final Instructions to which your letter also alludes, I have &c.

(Signed) JNO. WYLDE.

[Office Copy.]

Letter from R. W. HAY, ESQRE., to W. HILL, ESQRE.

DOWNING STREET, 25 May 1827.

SIR,—I have received the directions of Viscount Goderich to transmit to you enclosed for the consideration of the Lords Commissioners of His Majesty's Treasury the accompanying copy of a dispatch which has been received from Major General

Bourke suggesting that the old Rixdollar Notes which have accumulated in the Military Chest at the Cape should be replaced by other notes representing Sterling Money, and further suggesting the expediency of reducing the rate of Interest on Mortgages to the Lombard Bank. I am &c.

(Signed) R. W. HAY.

[Office Copy.]

Letter from R. W. HAY, ESQRE., to SIR RUFANE DONKIN.

DOWNING STREET, 26 May 1827.

SIR,—I am directed by Lord Goderich to acquaint you that in a letter which has just been received from Mr. D'Escury, he (Mr. D'Escury) states that he finds, to his utter astonishment, in Mr. Bishop Burnett's pamphlet, the most pertinent references made to circumstances in which he has been concerned, and that he cannot possibly comprehend how Mr. Burnett should have been enabled to quote verbatim passages contained in his papers. He then states more generally, and upon his honor, that he has not enabled *any one* to publish from his Papers. And I cannot forbear calling your attention to the latter part of this statement.

In page 94 of your printed Letter addressed to Lord Bathurst, you inform the Public that you were *at liberty* to produce Mr. D'Escury's Papers, as the whole of them had been transmitted to you by himself. Under these contradictory statements, Lord Goderich is obliged to request that you would be good enough to inform him whether you have any means of reconciling the assurances which have been received from Mr. D'Escury, with the statements contained in your recent publication. I have &c.

(Signed) R. W. HAY.

[Original.]

Letter from MR. CHARLES CAMPBELL to VISCOUNT GODERICH.

THEATRE ROYAL, CHELTENHAM, 26th May 1827.

MY LORD,—Previous to Earl Bathurst retiring from office I had the honor of receiving his promise to make the necessary enquiries into a claim I have upon the Orphan Chamber at the Cape of Good Hope. I am now induced to solicit your Lordship's interference, being convinced that without it I shall never obtain a shilling. My Father (Major General Charles Campbell) died at the Cape about 4 years since, the Orphan Chamber took possession of his effects, which were *sacrificed* for the benefit of the children. I have written several times, and received but one reply, and that authorised me to draw for 1700 Rixdollars by appointing an Agent at the Cape. I accordingly sent out a Power of Attorney to the Secretary of the Orphan Chamber, Mr. Smuts, but have never received any reply ; two years have now nearly elapsed, during which time I have written at least six times. I thereon most respectfully solicit your Lordship's interference, and have &c.

(Signed) CHARLES CAMPBELL.

[Original.]

Letter from SIR RICHARD PLASKET to R. W. HAY, ESQRE.

CAPE OF GOOD HOPE, May 27th 1827.

MY DEAR SIR,—I have had the pleasure of receiving your letter of 26th December last, and rejoice to find that you agree with me in the expediency of giving liberal allowances to those principal public Officers to whom the Government at home must look up for the due administration of the Colonial Government.

I am not surprised that Lord Bathurst should express his dissatisfaction at the appointment and proceedings of the Committee of Slave Proprietors. The whole was objectionable ; but the feeling in the Colony was so strong at the time that we conceived it better to allow them to vomit forth their annoy-

ances in the way of Memorial, than by preventing their meeting altogether to lead their vindictive feelings into another channel which would have been attended with more serious inconvenience to the local Government. The attempt made at Stellenbosch would have been persisted in and carried throughout the Colony, had we prevented the Public Meeting and Committee.

As to the allusion made in the letter which I addressed to the Committee by order of the Lieutenant Governor relative to the Proceedings in other Colonies, I can only say for myself that an allusion to a greater extent was proposed in the Resolutions of Council, and that on my suggestion it was left out. General Bourke wrote the letter to the Committee himself subsequently to the Proceedings in Council.

I have &c.

(Signed) RICHD. PLASKET,
Secretary to Government.

[Office Copy.]

Letter from VISCOUNT GODERICH *to* MAJOR-GENERAL BOURKE.

DOWNING STREET, LONDON, 28th May 1827.

SIR,—Sir Richard Plasket having represented that he is disabled by ill health from continuing to discharge the duties of his Office with advantage to the Public, and His Majesty's Government being desirous under such circumstances of bestowing the most favorable consideration upon the claims which Sir Richard derives from his long and able Services, you will signify to him that if, when this instruction shall reach the Cape, his health should not have improved, he has His Majesty's permission to absent himself from the Colony for a period of two years, or to resign his Office altogether; in either of which cases you will assign to him out of the Colonial Revenue an annual allowance not exceeding five hundred Pounds, which shall cease upon his resuming the duties of his Office, or upon his being appointed to some other suitable employment.

When Sir Richard Plasket shall have signified to you his

determination to absent himself temporarily from the Colony, or to resign his Office, you will entrust the duties of Secretary to the Government of the Colony, to Lieutenant Colonel Bell, the Member of Council, at a reduced Salary of Two Thousand Pounds per annum, without any allowance for house rent; and you will also not fail to acquaint Sir Richard Plasket that if he should hereafter resume the duties of his office, he will not be entitled to a higher rate of Salary. I am &c.

(Signed) GODERICH.

P.S. If Lieutenant Colonel Bell should decline to accept the appointment of Secretary to the Government, Sir Richard Plasket must postpone his retirement, unless his health should require immediate relief from official business, in which case you will have to select some person to carry on the Secretary's duties, and you will lose no time in reporting to me the arrangement which you may make accordingly.

[Original.]

Letter from MAJOR-GENERAL BOURKE to R. W. HAY, ESQRE.

GOVERNMENT HOUSE, CAPE TOWN, *May 28th* 1827.

MY DEAR SIR,—The Order in Council of the 1st June 1826 has lately been brought under my notice, and I am rather at a loss how to act in regard to it. The permission granted by the 11th Section of the Navigation Act (6 Geo. 4 Cap. 109) as limited by the 6 Geo. 4 Cap. 114 Sec. 4 is declared by the Order in Council to remain operative with respect to certain articles imported in French ships into the British Possessions in the *West Indies* and *America*. No other British Possessions being mentioned, I am led to conclude that the prohibitory part of the 11th Section of the Navigation Act is now in force in the Colonies of Asia and Africa with respect to French Ships. As this view of the case is however liable to some doubt, more especially as no special Instructions have been sent out on the subject by Earl Bathurst, to whom the care of giving the necessary directions appertains by the tenor of the Order, I have to request you will favor me with your opinion at your

earliest convenience. French Ships from Bordeaux with French produce arrive not unfrequently at this Port and dispose of part of their cargoes at a duty of 10 per cent ad valorem. I am &c.

(Signed) RICHD. BOURKE.

[Original.]

Letter from MAJOR GENERAL BOURKE to R. W. HAY, ESQRE.

GOVERNMENT HOUSE, CAPE TOWN, *May 28th* 1827.

MY DEAR SIR,—I avail myself of the opportunity of a bag with duplicates being sent off from the office to acknowledge the receipt of your letter of the 22nd December last, which did not reach me until the 15th of this month. At the same time were received Earl Bathurst's despatches to the 7th January, the last being No. 344.

I perceive you entertain some apprehension of inconvenience from Public Meetings to discuss the state of Slavery in the Colony and to propose measures for its extinction, which latter you regard as pretext merely. Certainly I was not insensible to the possible consequences of permitting the meeting of the inhabitants of Cape Town to *form a Committee*, tho' the declared object was merely to prepare a petition to His Majesty on the subject of the Slave Ordinance. But precisely such a Public Meeting, namely one to elect a Committee, having been permitted just one year before by His Excellency the Governor, upon a question of even more general anxiety, *that of the Currency*, I felt myself precluded from refusing the application made to me. I am confident however that in both cases it was prudent to accede to the wishes of the Applicants, and that much of the general irritation caused by the promulgation of these unpopular innovations was got rid of by the apparent condescension to the desire of the interested parties. Time at all events was gained, and in such cases this is material. With respect to the Slave Ordinance, coming as it did whilst the general discontent occasioned by the lowering of the Currency was still recent, and whilst the presence of the Commissioners of Inquiry and other circumstances rendered the Government

peculiarly feeble, it required some circumspection and prudence to bring into operation without violence or commotion on the part of either masters or slaves a measure of so hazardous a description. In following up the object steadily and firmly, I was not disposed to quarrel with a few angry and contentious expressions, but any proceeding which appeared to lead to an overt act of disobedience was promptly met. In Graaff Reynet discontent was very loudly expressed, but when the permission to meet was granted the irritation subsided, and the Committee have done just nothing at all. In the meantime the Ordinance has been acted upon, and being found not to interfere as was apprehended with the property or convenience of the Slave Owner, it has almost ceased to be regarded as an object of contention. I trust my despatches have been considered as warranting a declaration to Parliament to this effect if the state of Slavery at the Cape happened to be brought forward. I agree however entirely with you that measures tending to the ultimate extinction of slavery cannot as yet be expected to originate with the Colonists. I will just observe en passant that at no time since the conquest of the Colony have the laws been more strictly enforced both with regard to *high* and *low*, than during the last year ; and as crime encreases with poverty there have unhappily been within that period but too many cases where rigor seemed necessary.

I collect from your letter that some time must yet elapse before the result of the labors of the Commissioners are likely to be made known here. It is undoubtedly wiser to submit some time longer to the present awkward state of suspense than to introduce any change hastily or immaturity. In the meantime I hope things can be kept quiet, and the Government carried on without requiring supplies from home. This however may be difficult. I have already made manifest to Lord Bathurst the falling off of the permanent sources of revenue, and I fear the resources which I looked to from the Lombard Bank will be daily diminishing, as the Mortgagees find it almost impossible to pay up either interest or the required instalments of capital. To proceed to execution either for the recovery of this debt or of arrears of quit rents or taxes would effect the total ruin of the unhappy debtors, as property of all sorts is terribly depreciated, and insolvents

are daily surrendering their Estates to an amount that is quite frightful to contemplate. I propose shortly to furnish Earl Bathurst with some Returns showing the great encrease of insolvency within these two years.

It is not possible for Government to provide any sufficient remedy for this general distress occasioned by the sudden contraction of the Currency and a diminished commerce, and the effects of a succession of bad harvests. But I would strongly recommend a reduction of interest on the mortgages to the Lombard Bank to five per cent, and the introduction of the description of Currency I proposed in my despatch of the 22nd February last (No. 16). Something must very speedily be done in this respect, as a considerable quantity of specie has been exported since I wrote, and the paper money is daily becoming more unserviceable.

I lament the delay which has occurred and is likely to continue, in the forwarding the additional regiment of Infantry to this Colony. In the meantime you are aware that the expence of the Cape Infantry continues to be provided by this Treasury. It has been relieved lately by the transfer of the Military Commandants to the Military Chests. This is a relief of about £1000 per annum, yet it is but a trifling set off against the diminished revenue. I am &c.

(Signed) RICHD. BOURKE.

[Original.]

Letter from SIR RUFANE DONKIN to R. W. HAY, ESQRE.

33 PARK STREET, GROSVENOR SQUARE, *May 28th 1827.*

SIR,—I have to acknowledge the receipt of your Letter of the 26th instant, and, in answer I beg leave to state, most respectfully, for Lord Goderich's information, that I know nothing of the means by which Mr. Bishop Burnett got possession of the Contents of certain papers respecting Mr. D'Escury, and which you acquaint me Mr. B. Burnett has published in a pamphlet. I can only say that he did not get one word of Information from me on that or any other subject.

I have looked to page 94 of my printed letter to Lord Bathurst, to which you refer by telling me that I had there informed the public that I was "at liberty to produce Mr. D'Escury's papers, as the whole of them had been transmitted to me by himself."

The latter part of this sentence is most accurate, and in my letter to Mr. Wilmot Horton of August 1st 1823 I informed Lord Bathurst that I had received those papers, I offered Lord Bathurst all and every information on those papers. Mr. D'Escury referred Lord Bathurst to me for such information. He at the same time sent a Copy of these papers to a member of the House of Commons, referring him to me, I believe, and certainly me to him, but we never communicated on the subject. These papers are now in the hands of another Member, and will be brought before Parliament. Thus as far as I am concerned, there is nothing clandestine or improper in my using in my own Defence papers which were sent to me so openly, and with the knowledge of the Secretary of State for the Colonies at the time; but I cannot find at page 94 of my printed Letter any thing which bears out the *first* part of your Sentence which I have quoted, for, by that first part, as you have connected it with the *second* by the inferential particle "*as*," it would appear that I had said that my printing Extracts from Mr. D'Escury's papers was in consequence of having liberty from Him to do so, which I have neither said, nor implied.

The words I have used at page 94, viz. "I am as much at liberty to produce *it*" cannot refer either by collocation or grammatically to any thing but the *preceding* words, "correspondence of the Commissioners" in a sentence in which I was arguing that I was as much at "liberty to produce it" as any indifferent person, *because* all this had taken place *since* my departure; and this argument was introduced expressly to guard against the possibility of my being justly taxed with any Breach of official Confidence by publishing papers which came into my hands while in the Government, all of which I have kept inviolably sacred; this was the object of my reasoning, without any reference whatever to my having authority or not from Mr. D'Escury.

I there apply this same reasoning to Mr. D'Escury's papers,

copious Extracts from which have been in the hands of perhaps 50 persons in London for several Years, and of so many more at the Cape, equally eager to acquire and impart news, so that in fact I have merely printed that which was long ago published, although I am quite ignorant by whose means, or by whose Authority. I can only say that I myself have never given a Line out of Mr. D'Escury's papers to any human being.

I trust that this explanation will be quite satisfactory to Lord Goderich, and I will beg leave to take this opportunity of expressing my conviction that the more his Lordship shall have occasion to sift and go into my conduct, either at the Cape or since my return, the more He will be convinced that Honesty, Candour, and the feelings of a Gentleman have been my Guides throughout. I have &c.

(Signed) R. S. DONKIN.

[Original.]

Letter from SIR RICHARD PLASKET *to* R. W. HAY, ESQRE.

CAPE OF GOOD HOPE, 28th May 1827.

MY DEAR SIR,—You will no doubt have received the private letter I took the liberty of writing to you under date 18th April last, relative to the proposed sale of Newlands.

We have since received Earl Bathurst's dispatch upon that subject, from which I learn that Camp's Bay is proposed as a summer residence for the Governor in lieu of Newlands.

The situation of this house (which is only a cottage, without any means of accommodation for a family,) is by no means suited for a summer residence, nor has it ever been used as such, Lord Charles having only sent part of his family there in the Spring and Autumn for the benefit of the sea bathing.

It is exposed to all the violence of the South Easters during summer, and the occupation of it by the Governor will entail a constant and heavy expence in keeping up the road, three miles in extent, the greater part cut out of the side of a mountain, and which is regularly damaged by the winter rains and leads to no other place than Camp's Bay. It is very narrow in some parts, and rather dangerous from the precipice on

one side, without any wall whatever, and to keep it in good repair as a carriage road to the Governor's residence would cost much money. At present no one ventures to travel the road by night, and it would really be necessary to build up a wall on the side of the declivity, were it made a regular carriage road. It is also quite out of the way, and would be very inconvenient for persons waiting upon the governor.

General Bourke will shortly address Earl Bathurst officially on the state of Newlands in reply to His Lordship's dispatch, and I sincerely trust, for the comfort of whoever may be appointed as Governor of this Colony, that it may be retained as his country residence even tho' he should be called upon to be at the expence of keeping it up. An allowance of £300 a year would be sufficient to keep the grounds in proper and respectable order. I have &c.

(Signed) RICHARD PLASKET.

[Office Copy.]

Letter from VISCOUNT GODERICH *to* MAJOR-GENERAL BOURKE.

DOWNING STREET, LONDON, 29th May 1827.

SIR,—I transmit to you enclosed a copy of an application which I have received from Mr. Charles Campbell upon the subject of some claim which he alleges has not been duly attended to by the Officers of the Orphan Chamber. I cannot of course decide whether Mr. Campbell's claim be just or not, but I am of opinion that his representations should receive some answer. I am &c.

(Signed) GODERICH.

[Original.]

Letter from MAJOR-GENERAL BOURKE *to* EARL BATHURST.

GOVERNMENT HOUSE, CAPE TOWN, May 29th 1827.

MY LORD,—I have the honor to enclose the copy of a letter addressed to the Chief Secretary to Government by Mr. A. Richert, Senior, announcing his having been appointed Consul

at the Cape of Good Hope by His Majesty the King of Prussia. I have since observed this appointment officially noted in the *London Gazette*. I think it my duty to inform your Lordship that Mr. A. Richert, Senior, was about two years ago employed in the printing office of this Government, from whence he was dismissed in consequence of his having been detected in defrauding Merchants and other Residents of this Town by charging for advertisements in the *Government Gazette* at a much higher rate than the Tariff authorised. I have the honor to enclose the copy of the letter informing Mr. Richert of his dismissal and a copy of his reply.

Under these circumstances I have thought it expedient to decline notifying the appointment of Mr. Richert in the *Gazette* of the Colony, and have informed him that I propose to make his case known to your Lordship, but that in the mean time no impediment whatever will be offered to the full discharge of his official duties.

Considering the nature of the offence of which Mr. Richert has been guilty, and that the duties of the office to which he has been now appointed lead to an official intercourse with the description of persons whom he appears in his former employment to have defrauded, I would recommend to your Lordship that the necessary steps should be taken to recall Mr. Richert's appointment as Consul at this place. I have &c.

(Signed) RICHD. BOURKE.

[Enclosure 1 in the above.]

COLONIAL OFFICE, 1st August 1825.

SIR,—I am directed by His Excellency the Governor to inform you that in consequence of your having been detected in defrauding the Merchants and other Residents in this Town by charging for the insertion of their Advertisements in the *Government Gazette* far beyond what is authorised by the Government Tariff and the extra fees allowed for the Workmen, he has been pleased to dismiss you from your situation as Superintendent of the Government Printing Office from this date.

His Excellency is sorry to observe that there is not the

smallest palliation for your offence, as your Salary and Emoluments of Office have been considerable, and ought to have prevented all attempts at such disgraceful conduct.

I am &c.

(Signed) RICH'D. PLASKET, Secretary to Government.

Mr. A. Richert, Senior.

[Enclosure 2 in the above.]

CAPE TOWN, 3rd August 1825.

SIR,—I most respectfully take the liberty to return you my most grateful thanks for the favor conferred on me yesterday, in granting that my removal from the Government Service shall not appear in the *Gazette* as a dismissal, may I intrude further on your kindness to beg of you that you will be pleased for the sake of my large family and my own character, to extend your munificence towards me in adding to the Advertisement the word *resigned*.

I trust that you will accord this my humble supplication in consideration of my long services. I have &c.

(Signed) A. RICHERT, Senior.

Sir Richard Plasket,
Secretary to Government.

[Enclosure 3 in the above.]

CAPE OF GOOD HOPE, 21st May 1827.

SIR,—His Majesty the King of Prussia having by His Royal Commission dated 19th August last been pleased to appoint me His Consul at the Cape of Good Hope, to assist His Subjects and People in their Commerce and Traffic, and the said appointment having been graciously approved of by His Britannic Majesty by letter dated Windsor the 21st of October 1826, I have the honor to acquaint you with said appointment for His Honor the Lieutenant Governor's information, and to request that the usual publicity may be given thereto.

I will be most happy to produce or forward to you the said Commission and approbation whenever required,

I have &c.

(Signed) A. RICHERT, Senior.

The Hon. Sir Richard Plasket,
Secretary to Government.

[Original.]

Letter from LORD CHARLES SOMERSET to VISCOUNT GODERICH.

LOWER GROSVENOR STREET, *May 29th 1827.*

MY LORD,—Perceiving in the Appendix to a published letter dated 6th of April last, addressed by Lieutenant General Sir Rufane Shawe Donkin to Earl Bathurst, a Paragraph relative “to a whole set of Warrants having been ordered to be cancelled by me, in consequence of the rate of Exchange having altered, by which process a considerable number of Rixdollars was added to the Governor’s salary,” and that this measure “took place in the face and defiance of a most explicit Regulation of the Lords Commissioners of His Majesty’s Treasury,” and that “this fact can be established by the Colonial Paymaster and Mr. P. G. Brink,” the Assistant Secretary to the Government of the Cape of Good Hope, I have earnestly to solicit that, as Mr. Brink is now in London, your Lordship will be pleased to call upon him to state all the circumstances upon this subject within his knowledge. I have &c.

(Signed) CHARLES HENRY SOMERSET.

[Office Copy.]

Letter from R. W. HAY, ESQRE., to SIR RUFANE DONKIN.

DOWNING STREET, *29th May 1827.*

SIR,—I have received your letter of the 28th instant and am desired by Lord Goderich to acquaint you that you seem to have misapprehended the nature and object of the enquiry which his Lordship desired me to make to you.

The point upon which his Lordship desired information did not refer so much to the degree of authority which you had for publishing those of Mr. D'Escury's Papers which had come into your possession in 1823, as it did to the general statement which has recently been received from Mr. D'Escury in which he positively disclaims having enabled *any* one to publish from his Papers.

His Lordship has not been able to discover in any part of your letter the explanation which you were requested to afford on that point, and which was this, viz. : whether you had ever been yourself enabled by Mr. D'Escury to publish from his Papers. This question clearly refers to *any* Papers of Mr. D'Escury's, be their date what it may, and although you have referred to a correspondence with Mr. D'Escury in 1823, and to the receipt of Papers from him, a circumstance which was made known to the Secretary of State at that time, you have not afforded any clue to the means by which you became possessed of the Papers of later date of which you have made use ; and if in the publication of those later papers you were enabled by Mr. D'Escury to do so, his statement, viz. that he never enabled *any* one to publish from his papers, cannot be true. Since, therefore, your letter does not give any explanation upon this point, it does not give Lord Goderich the means of determining what reliance he ought to place upon Mr. D'Escury's averment.

In regard to the passage from the appendix to your last publication which was quoted in my letter of the 26th Instant I confess that I do not see how the interpretation which you contend should be put upon it, affects the general merits of the question at issue.

The words which you have used at Page 94 viz. : " I am as much at liberty to produce *it*," undoubtedly, as you observe, referred to the preceding words " Correspondence of the Commissioner," but then follows, " so with some other Papers of Mr. D'Escury's, for instance, the whole of which he sent to me " ; and whether " the liberty to produce " them (which you maintain that you possessed) was founded in your opinion on these Papers bearing date *since* your departure, or because they had been transmitted to you by Mr. D'Escury, is of no importance as far as relates to the point upon which Lord

Goderich wishes for information, viz. : whether Mr. D'Escury enabled you to publish any papers whatever of his.

I have only one other observation to make which refers to the conclusion of the same passage in Page 94.

You say that "there was nothing clandestine on the part of Mr. D'Escury in this transaction," alluding to his conduct in sending Papers to yourself and others with the knowledge of the Secretary of State in 1823 : this statement is quite correct as far as the Papers of that date are concerned, but does not apply to those of later date, and it is with relation to those that Lord Goderich's enquiries are directed. I have &c.

(Signed) R. W. HAY.

[Printed Copy.]

Letter from SIR RUFANE DONKIN to R. W. HORTON, ESQRE.

PARK STREET, GROSVENOR SQUARE,
May 29, 1827.

SIR,—I have been informed from authority which I should not have doubted, had I not your own signature in contradiction to it, that you had said, or implied, that I had offered to give in "Charges" against Lord C. Somerset ; and then that I "retracted," or "withdrew," or "desired to retract or withdraw," such Charges ; and, farther, that you had said, or implied, that I had subsequently talked of "Disclosures" which I would make, but that I "evaded," or "eluded," or "shrunk," from making them also.

To put down at once all such misrepresentations, and which I beg to be distinctly understood I myself do not attribute to you, I will cite two contradictions of them under your own hand.

In your Letter to me, dated July 19, 1823,* you say to me,

* This Letter is strictly official, and not private, although it begins with the courteous formula of "Dear Sir ;" but the whole of the Letter is as strictly public as a letter can be. I need only quote the following :—"I am directed, therefore, by Lord Bathurst, to request that you will at once communicate to him," &c. In short, the whole is a formal, official, mandatory communication from the Secretary of State.

“ It is perfectly true that nothing which you said in your letter of the 17th ult. to Lord Bathurst ” (the only letter of mine in which anything of the sort is touched on) “ ought to be considered as pledging you in any way to prefer direct Charges against Lord Charles Somerset.”

And next for the “ Disclosures.”

On August 26, 1823, you wrote to me as follows :—

And as you have also informed his Lordship that Mr. D’Escury had anticipated you in making many of those Disclosures to which you have alluded in your communication with this office, his Lordship does not feel it necessary to call on you to make those Disclosures.*

Was this “ evading,” “ eluding,” or “ shrinking,” in any way, on my part at least, from bringing to light those “ Disclosures ? ”

With your own words I have thus refuted the fabrications which have gone abroad as your assertions, which, from the first, I have argued could not have been yours, as it is impossible that you can have said, or insinuated, one thing in one place, and have written the contrary in another !

Having thus destroyed this impression, I will now show, that so far from “ eluding,” or “ evading,” or “ shrinking,” from the making of “ Disclosures,” I wrote as follows to you on the 1st of August, 1823, *twelve days after* your admission, that it was perfectly true that I had not pledged myself in any way to prefer Charges.”

I said,

I do *not* shrink from the performance of any duties resulting out of my late office at the Cape of Good Hope ; and I feel that the Secretary of State for the Colonies has a right, *still*, to all my best services in aiding the Researches and Investigations of the Commissioners.

What then have I “ retracted,” “ eluded,” “ withdrawn,” or “ shrunk from ? ”—NOTHING.

The only thing I refused to do, was to allow myself to be

* These extracts, and a following one, which I shall make from a Letter from me, are from Letters which have *not* been yet laid before the House of Commons by Mr. Wilmot Horton,—from inadvertence, I am sure ; for he must well know that without those three Letters, *as well as several others*, which I have requested a Member to move for, it is no more possible for the House to form a judgment on my Correspondence, than it is for a man to judge of another’s face by a sight of his little finger.

loaded with the odious office of becoming a gratuitous Public Accuser—an office Lord Bathurst had no right to impose upon me. If “Charges” were necessary, it was for his Lordship to prefer them, after all the information I had given him, and after all the “Disclosures” I had made as to the Cape: and, had his Lordship judged it expedient to frame charges, and to call on me to aid him in substantiating those charges, I would at once have obeyed the call. And I here tell you, that, intimately acquainted as you are with all the Case, if *you* will frame charges against Lord Charles Somerset, I will now obey *your* call, for you have a right to demand, and shall have from me, all the aid I can give you, either as an Amicus Curiae, or as a witness, or in any other way. Will any man, after this, say that I have evaded—or do evade, elude, or shrink from any thing which I am in fairness bound to stand up to?

Further, I am ready to appear at the Bar of the House of Commons, there to be examined as a preliminary measure, that you may know what ground you have to stand on, as far as I am concerned.

But public rumour ascribes to you another observation concerning me, which I will not believe you could have made, namely, that, “the candour and fairness of Sir Rufane Donkin may be judged by the *fact*, that, when he had been twelve or fourteen months at the Cape, he stated, in a letter to Lord Bathurst, that he had directed his efforts to follow up the plans of his noble predecessor!!”

To any *man* who may advance that I wrote *such* a despatch, I answer by two words—PRODUCE IT.

But how is the above sentence worded? Every one, on reading it, will be impressed with the belief, that I had been twelve or fourteen months *in the Government* when I wrote such a despatch—a sentence, as I have received and quoted it, inaccurate as to fact, and unfair as to me.

The plain truth is, that after an existence of near *seven*, not fourteen, months at the Cape, in so deplorable a state of health that I saw nobody, conversed with nobody, and when I hardly expected, at one time, to live from one week to another, and consequently, I neither knew nor cared any thing about the Governor or his measures—I, *on the very day* I

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ity be afforded to me ; and I know a great deal more than
have disclosed in my defence of myself.

You must be aware that I have ample means of doing myself
justice ; and this is all I aim at. I have always wished, and
I wish, to obtain that justice from those quarters to which
I have a right to look for it. You, from your office, are one of
those quarters ; and, I cannot help thinking, that you are bound
by duty not to be either the advocate of Lord Charles Somerset,
or the Accuser of me : but to lend your best endeavours to
get at the TRUTH, and to go straight forward (without per-
mitting in any one any special pleading on minor or collateral
points) into the full investigation of all the details of Lord
Charles Somerset's Government, which have been so amply
spread out before you by me and by others.

If you will do this, it is all the justice I ask myself at your
hands. I remain &c.

(Signed) R. S. DONKIN.

[Office Copy.]

Letter from VISCOUNT GODERICH *to* MAJOR-GENERAL BOURKE.

DOWNING STREET, LONDON, 30th May 1827.

SIR,—I transmit enclosed for your information an extract
of a letter which has been received from the Board of Ordnance,
stating that orders have been given for dismantling the
batteries, forts and works of defence which are severally
enumerated in the Board's communication ; and I have to
desire that you will take especial care that no part of the
Land on which such works are situated be granted to private
Individuals or otherwise diverted from the public Service.

Upon the other topics to which the letter of the Board of
Ordnance adverts, it appears to me to be unnecessary to
convey to you any special instructions ; as I feel persuaded
that you will be disposed to use your best endeavours for the
purpose of adjusting with the respective Officers of the Ordnance
Department in the Colony all the points which have not been
finally disposed of in conformity with the general arrangement
of January 1826. I am &c.

(Signed) GODERICH.

[Original.]

*Letter from MAJOR-GENERAL BOURKE to EARL BATHURST.*GOVERNMENT HOUSE, CAPE TOWN, *May 30th 1827.*

MY LORD,—I have the honor to enclose a Memorial addressed to me by the widow of the late Mr. Egbertus Bergh, a gentleman who had filled many important offices in the Colony, and who on the suppression of that which he last held, was allowed to retain his full salary, amounting to Rds. 3,000 or £225 per annum.

By his death his widow is reduced as I am credibly informed to very great straits, under circumstances of a peculiarly afflictive nature. The attention which her late husband is known to have paid to public business for the greater part of his life tended to the neglect and embarrassment of his private affairs, and he has left his widow at the age of sixty-seven without any adequate provision. I would therefore respectfully recommend to your Lordship to allow Mrs. Bergh a pension of one hundred pounds a year, commencing from the day of her late husband's death. I have &c.

(Signed) RICHD. BOURKE.

[Enclosure in the above.]

To His Honor Major-General Bourke, C.B., Lieutenant Governor.

The Memorial of Widow of the late Egbertus Bergh, Esquire,
Humbly Sheweth,

That your Memorialist's late husband served the Colonial Government in various important situations for upwards of forty-five years.

That in the year 1818, while your Memorialist's husband enjoyed the situation of President of the Board for regulating Insolvent Estates, that Board was dissolved by Instructions from His Majesty's Secretary of State for the Colonies, and your Memorialist's husband obtained his honourable discharge.

That your Memorialist's husband having applied to His Excellency Lord Charles Henry Somerset for permission to

enjoy his full salary as late President of the above Board for life, His Excellency most kindly forwarded his application to His Majesty's Secretary of State, who on the 20th April 1819 communicated to His Excellency the following gracious reply :
" That His Royal Highness considered Mr. Bergh's claim to remuneration of so peculiar a nature as to authorise a compliance with the prayer of his Memorial for a continuance of his Salary."

That from this salary having formed nearly the sole means of support for your Memorialist's said husband and his family, she has by his decease, which took place on the 28th February last, been plunged into the deepest distress and deprived at the close of a lengthened existence of any resources from which she can provide for herself and her children, among whom is an afflicted daughter, whose melancholy state of mind not only requires unremitting attention, but is productive of considerable expence.

Your Memorialist therefore humbly prays that it may please your Honor to take the distressed state of her family and herself into your humane consideration and grant her such relief by pension or otherwise as your Honor may deem most expedient and conducive to her interest.

And your Memorialist as in duty bound shall every pray.

(Signed) A. S. VAN REEDE VAN OUDTSHOORN,
Widow E. Bergh.

[Copy.]

Proclamation by MAJOR-GENERAL RICHARD BOURKE.

Whereas it has appeared by the proceedings of the Commission of Circuit, that in the beginning of the month of January, 1826, certain Persons assembled together for the purpose of pursuing and retaking Cattle, supposed to have been stolen by some Bushmen, from the Flocks and Herds of several Farmers in the Lower Bokkeveld, in the Subdivision of Clanwilliam, and that the said Persons, without the authority, or even the knowledge, of the Field-Cornet or any other Magistrate

of the District, proceeded under the directions and orders of *Hannes Diergaard* to the Roode Kloof, in search of the supposed Robbers ; and having there discovered a Bushman's Kraal, illegally and wantonly committed a most barbarous MURDER upon the Persons of three Men, one Woman, one Boy, and a Girl :

And whereas three only of the Persons implicated in the said Murder, viz. *Jantje Blom* alias *Jantje Torrop*, *Laberlot*, and *Langsman*, all Hottentots, have been apprehended and brought to justice.

And whereas besides the said Persons who have been so apprehended and brought to Justice, the abovementioned *Hannes Diergaard*, together with *Gerrit Cloete* ; *Gerrit Cloete*, *Jan's son* ; *Gerrit Cloete*, *Gerrit's son* ; *Jan Cloete* ; *Cootje Cloete* ; *Abraham Joseph*, and *Jantje Rooy*,—all living within, or in the vicinity of the Lower Bokkeveld, in the said Subdivision of Clanwilliam, are subject to the charge of having formed part of the said illegal Assembly, and of having aided and abetted in the above atrocious Murder ; and further, that since their appearance in Clanwilliam to give Evidence there-upon, the above Persons have all absconded and cannot be found :

Now, for the better apprehending and bringing to Justice the Offenders, I do hereby offer a Reward of FIFTY POUNDS Sterling, to any Person who shall, within Six Months from the date hereof, discover the said *Hannes Diergaard* ; and a further Reward of TWENTY POUNDS for the discovery of each of the other abovenamed Offenders, so that he or they may be apprehended and lodged in any of the Prisons of this Colony.

God save the King !

Given under my Hand and Seal, at the Cape of Good Hope, this 30th Day of May, 1827.

(Signed) RICHARD BOURKE.

By Command of His Honor,

(Signed) R. PLASKET, Secretary to Government.

[Office Copy.]

Letter from VISCOUNT GODERICH *to* MAJOR-GENERAL BOURKE.

DOWNING STREET, LONDON, 31st May 1827.

SIR,—Having had under my consideration your dispatch No. 7 of the 1st of February last, with the Memorial therein enclosed from Mr. John Chisholm, praying that he may be continued in the Office of Superintendent of the Water Works of Cape Town, I have to acquaint you in reply, that I fully concur in the view which you have taken of the merits of Mr. Chisholm's application. You will, therefore, signify to him that the circumstance of his having been retained in employment so many years beyond the terms of his original Contract cannot be considered as an admission that he should be entitled to be employed so long as it suited his convenience, and that His Majesty's Government do not think proper to require his Services any longer. I am &c.

(Signed) GODERICH.

[Office Copy.]

Letter from VISCOUNT GODERICH *to* HIS MAJESTY'S ADVOCATE
GENERAL.

DOWNING STREET, 31 May 1827.

SIR,—It has been deemed advisable that the Bishop of Calcutta lately appointed should on his way to India perform the Ceremony of confirming at the Cape of Good Hope persons who have been baptized. This settlement is not comprehended within the limits of the Charter of the East India Company, to which the Diocese and Spiritual Jurisdiction of the Bishop are confined, and it is enacted by the 53rd Geo. 3rd, Cap. 155, "that such Bishop shall not have or use any Jurisdiction or exercise any Episcopal functions whatsoever, either in the East Indies or elsewhere but only such jurisdiction and functions as shall or may from time to time be limited to him by His Majesty by Letters Patent under the Great Seal of the United Kingdom." I have to signify to you His Majesty's

would have informed the House, "that on the 8th May 1824 a warrant without any qualification was issued by Lord C. Somerset for the banishment of Mr. Greig within one month from that date; that after the specified time had nearly elapsed, his business irretrievably ruined, and himself on the eve of embarkation, Lord Charles Somerset became alarmed for the probable consequences of this *illegal* act, and caused the Fiscal to write Mr. Greig "that His Excellency *never intended* carrying into effect that warrant, unless Mr. G. *again* offended." Thus Sir, it will be seen that in every sense of the word (except as to actual *departure* from the colony) Mr. Greig *was banished*, in fact had become an outcast, entirely the consequences of Lord Charles Somerset's warrant of banishment. I had an intention to reply to you through the medium of the daily journals, but hope you will give such explanation to the House as will set me right with my public and private friends and render that step unnecessary.

I may perhaps be allowed here to mention, that I was not privy to the motion made by Mr. Hume on Wednesday for production of the papers relating to Mr. Greig's case, in fact, I endeavoured to prevail on him to, at least, *delay* his motion until the arrival of the Editor, daily expected. I have thought it right to mention this, in order to prevent misapprehension; certainly, I entertain a strong opinion on the arbitrary measures adopted by Lord Charles Somerset towards my brother, but I cannot for a moment doubt the disposition of Lord Goderich to render my brother ample justice; this conviction made me averse to a premature discussion of this last act of almost unheard of oppression. I have &c.

(Signed) WILLIAM GREIG.

[Original.]

Letter from T. P. COURTENAY, ESQRE., *to* R. W. HAY, ESQRE.

ABINGDON STREET, *May 31st 1827.*

SIR,—Having received from the Board of Ordnance the enclosed demand for three hundred and seventy-six pounds ten shillings and eight pence, stated to be the value of Camp

Equipage issued from the Ordnance Stores at the Cape of Good Hope, for the use of the Cape Corps, in 1826, I have to request that you will obtain the directions of Viscount Goderich as to the payment of this sum. I have &c.

(Signed) T. P. COURTENAY,
Agent for the Government of the Cape of Good Hope.

[Office Copy.]

Letter from R. W. HAY, ESQRE., to P. G. BRINK, ESQRE.

DOWNING STREET, 1 June 1827.

SIR,—In consequence of a communication which Viscount Goderich has received from the Governor of the Cape of Good Hope upon the subject of a statement which has been published by Lieutenant General Sir Rufane Donkin and which you will find more particularly detailed in Pages 163 and 164 of that Officer's recent Publication, I have to convey to you the directions of Viscount Goderich that you will transmit to me for his information such explanation as you may be enabled to afford of the transaction to which that statement refers.

I am &c.

(Signed) R. W. HAY.

[Original.]

Letter from P. G. BRINK, ESQRE., to R. W. HAY, ESQRE.

LONDON, 2nd June 1827.

SIR,—In compliance with your desire that I would give explanation of the assertions made by Sir Rufane Donkin in pages 163 and 164 of the second Appendix to the second edition of his published Letter to Earl Bathurst, under date 6th April 1827, "relative to a whole set of warrants having been ordered to be cancelled by Lord Charles Somerset in consequence of the rate of exchange having altered, and a new set made out, by which process a considerable number of Rixdollars was added to the Governor's salary, &c." I have the honour to

state, that a few days previous to the expiration of the quarter which ended on the 31st March 1824, the colonial paymaster transmitted to the secretary's office at the Cape of Good Hope, in pursuance of his instructions, the warrants for the salaries of the civil servants, who are paid in sterling money, in order that a general warrant for the total amount on the receiver-general might be made out, and the whole submitted to the Governor for his signature: that on its being discovered at the office that the calculation of the rate of exchange at which these warrants were made out did not include a drawing for bills on England, which was advertised on the 26th March 1824, by the assistant commissary-general, and tenders for which were to be received on the 31st March 1824, (*vide* Annexure No. 1) I called the Governor's attention to the circumstance, when, instead of ordering the warrants to be cancelled as asserted, his Excellency directed me, as assistant secretary to the government, (the chief secretary not having for a long period been able to attend his official duties in consequence of a serious accident he had met with,) to refer the subject to the auditor general and colonial paymaster for their decision, "Whether the aforesaid drawing ought or ought not to be included in the calculation;" and his Excellency, having seen the assistant commissary-general, addressed the note (of which Annexure No. 2 is a copy) to me.

On the receipt of the joint opinion of these gentlemen, that "as the drawing actually took place within the quarter which terminated 31st March inclusive, it should of necessity be included in striking the average rate of exchange for that quarter," I transmitted their report (of which I regret I have no copy by me, but which is recorded in the secretary's office at the Cape) to the Governor, accompanying it by a note (of which Annexure No. 3 is a copy), in which I informed his Excellency that I had, as a matter of course, caused the warrants to be made out in conformity to the decision of the auditor-general and colonial-paymaster, one of whom (the auditor-general, Mr. Bentinck) being now in London, can be referred to, and he will, I doubt not, fully corroborate this statement.

This proceeding, so far from being in "defiance of the regulations of the Lords Commissioners of His Majesty's Treasury"

(as asserted by Sir Rufane Donkin), was on the contrary strictly conformable to the established practice.

The Treasury regulations do not make any provision of the nature alluded to by Sir Rufane Donkin : they merely require the Governor (*vide* Annexure No. 4) to transmit to England, with the quarterly accounts of the civil paymaster, the documents upon which the rate of exchange (according to which the civil servants were paid) is ascertained and authorized. Those regulations were complied with by the transmission of the usual certificate from the assistant commissary-general ; a copy of that certificate, taken from the one deposited with the accounts for the period in question, in the office of the Commissioners of Colonial Audit, I have the honour to annex, sub No. 5.

While upon this subject, allow me to explain to you that the practice at the Cape, previous to the assumption of the government by Lord Charles Somerset, was to strike the average at which the civil servants were paid from the three highest tenders accepted by the commissariat for bills drawn upon His Majesty's Treasury during the quarter.

His Lordship, however, deemed it more equitable towards the public, some time after his arrival at the Cape (I believe in the year 1816), to alter this regulation (much to his own disadvantage, as well as that of the other civil servants, whose salaries are fixed in sterling money), by directing such salaries to be thenceforth paid at the average of *all* the tenders accepted by the commissary-general for bills drawn during the quarter.

I have &c.

(Signed) P. G. BRINK,

Assistant Secretary to the Govt. of the Cape of Good Hope.

[Annexure No. 1.]

Extract from the *Cape Town Gazette and African Advertiser*.

Advertisement.

COMMISSARIAT, CAPE OF GOOD HOPE,
CAPE TOWN, 26th March 1824.

Notice is hereby given to such persons as may be willing to supply paper currency for bills of exchange, drawn at

thirty days sight, by Assistant Commissary General William Hewetson on the Right Honourable the Lords Commissioners of His Majesty's Treasury, that sealed proposals for any sum or sums not exceeding ten thousand pounds sterling (£10,000), specifying the number of rixdollars, skillings and stivers offered for the pound sterling, will be received at th's office until twelve o'clock on Wednesday next the 31st instant.

No bills will be granted for less than £100 sterling, and those tendering for a larger sum will be expected to express in their tenders the respective amount for which they wish their bills to be drawn.

[Annexure No. 2.]

NEWLANDS, *April 1st*, 1824.

MY DEAR SIR,—By a conversation with Mr. Hewetson, I am induced to think that it is very questionable how far the drawing o' 31st March ought or ought not to be included, when taking the average of the accepted tenders in the quarter.

The tenders are certainly made and accepted within the quarter, but the bills are not given, and therefore the measure does not take effect till the 2nd of April. 'Tis a nice point to decide, and I wish you to refer it to the colonial paymaster and colonial auditor, referring them to the regulations, and directing them to decide as they shall conscientiously think the regulation ought to be construed. In forming their decision, they must entirely put out of view any alteration in the exchange, or any advantage or disadvantage that may be the result of their decision. When I desired the average to be sent back to the colonial paymaster, I was not aware of the circumstances Mr. Hewetson has communicated to me, and which, in *my* opinion, in some degree changes the case; at least they put a doubtful character on it. Yours truly,

(Signed) C. H. SOMERSET.

P. G. Brink, Esquire.

[Annexure No. 3.]

CAPE TOWN, *1st April* 1824.

MY LORD,—Having, in consequence of your Lordship's instructions, referred the question as to the exchange at which the civil servants are to be paid for the quarter ending 31st

March, to the colonial auditor and colonial paymaster, I received the accompanying reply, from which your Lordship will see that they are of opinion that the average of yesterday's drawing should be included in the calculation ; the warrants will therefore be made out accordingly. I remain &c.

(Signed) P. G. BRINK.

His Excellency the Right Honourable Lord C. Somerset.

[Annexure No. 4.]

Extract from the Instructions of the Lords Commissioners of His Majesty's Treasury to the Governor of the Cape of Good Hope, relative to the mode of making up the Public Accounts ; dated 18th March 1816.

Expenditure :

Fourteenth ;—It appearing that the officers upon the civil establishment of the Cape of Good Hope receive in paper rixdollars the amount of their salaries as fixed in this country, according to the current rate of exchange between the colony and England, you will transmit, with the quarterly accounts of the civil paymaster, the documents upon which that rate of exchange is ascertained and authorized.

[Annexure No. 5.]

COMMISSARIAT, CAPE OF GOOD HOPE,
CAPE TOWN, 1st April 1824.

SIR,—In reply to your letter of this date, requesting to be made acquainted with the average rate of exchange of all accepted tenders which I may have received for any government bills since the 31st December last, to enable you to pay the civil servants of this colony accordingly, I have the honour to state as follows, viz. :

Average of tenders for £10,000 sterling, accepted on the 14th January, R. D. 11. 6. 1. per pound sterling. Bills drawn on 16th following :

Average of tenders for £10,000 sterling, accepted on 18th

February, R. D. 12. 2. 2. per pound sterling. Bills drawn on 20th following :

Average of tenders for £10,000 sterling, accepted on 31st March, R. D. 13. 3. 4. per pound sterling. Bills dated 2nd instant. I have &c.

(Signed) W. HEWETSON,
Assistant Commissary-General.

M. S. J. MacCarthy, Esq., Colonial Paymaster.

[Original.]

Letter from MAJOR-GENERAL BOURKE to EARL BATHURST.

GOVERNMENT HOUSE, CAPE TOWN, *June 3rd 1827.*

MY LORD,—I have the honor to acknowledge the receipt of your Lordship's despatch of the 3rd January last, No. 342, with an enclosure from the Secretary to the Board of Treasury, communicating their Lordships' decision on the Memorial of Mr. Charles Blair, Collector of Customs at this Port, and have to inform your Lordship that in pursuance of the instructions it contains, I have directed Mr. Blair's allowance of £200 per annum as retired Port Captain to be put under stoppage until the amount of the loss occasioned by his clerk's peculation shall be paid off. This stoppage is to commence from the first of next month. I have &c.

(Signed) RICH'D. BOURKE.

[Original.]

Letter from MAJOR-GENERAL BOURKE to EARL BATHURST.

CAPE OF GOOD HOPE, *3rd June 1827.*

MY LORD,—I have the honor to transmit to your Lordship the General Monthly Return of the Forces serving under my command to the 25th May 1827. I have &c.

(Signed) RICH'D. BOURKE.

[Original.]

Letter from MR. JOHN FAIRBAIRN to VISCOUNT GODERICH.

14 BUNHILL ROW, FINSBURY, *June 3rd 1827.*

MY LORD,—I beg to inform your Lordship that I have within the last week arrived in London from the Cape of Good Hope, having come to seek redress from his Majesty's Government for the loss which I in conjunction with my copartner in the property of the *South African Advertiser* Newspaper have sustained by the cancelling of the Licence to print and publish that paper. Previously to my adopting any measures which your Lordship's sense of justice will I have no doubt render unnecessary when you are put in possession of the facts of this case, I feel it due to your Lordship to submit that document with which I am entrusted to your Lordship in the first instance, and to enable me to do so I beg to solicit of your Lordship the honor of a private interview at your Lordship's earliest convenience. I have &c.

(Signed) JOHN FAIRBAIRN.

[Original.]

Petition of MR. JAMES THOMAS ERITH.

To the Right Honorable Lord Goderich, one of His Majesty's principal Secretaries of State, &c., &c., &c.

May it please your Lordship,

The Petition of James Thomas Erith, late a Settler at the Cape of Good Hope, most humbly sheweth

That your Petitioner in compliance with the terms prescribed by His Majesty's Government in 1819, took out at a very considerable expense a party of articted servants, who were bound to him for three years at annual stipulated wages, paying into His Majesty's Treasury £105 deposit, which money (except the first Instalment) has never been repaid him.

That your Petitioner a few days previous to his leaving England parted with freehold property of the annual value of £65.

That your Petitioner was located on a spot near Bathurst with which he was highly gratified, and immediately commenced erecting a house, deposited all his garden seeds, &c., when after a residence of ten weeks, he was forcibly dragged from thence (while on a bed of sickness) and placed on the land (vice Mr. Damant), his servants taken from him, himself and family refused rations either by purchase or credit, and nearly two years after the second and third instalments should have been paid, he was called upon by the Deputy Assistant Commissary General Johnstone to sign a receipt *without date* for the said deposit money, as if he had actually received it, and was threatened with imprisonment on his refusal.

That your Petitioner in April 1823 had 9 head of his cattle seized by order of Mr. Onkruydt, and of which up to the present time he cannot get any satisfactory account.

That your Petitioner has many complaints against the Local Authorities and Colonial Government, particularly two, first, when Mr. Rivers (the Landdrost of Albany) issued a written order to have the house of your Petitioner destroyed, and which was by two constables set fire to and burnt, together with property of considerable value, in consequence of which the lives of himself, his wife, and children, had nearly fell a sacrifice, having no shelter but the side of a rock in the middle of a severe winter and your Petitioner had not built to the extent of his location by some hundreds of yards.

Secondly, That your Petitioner has been kept a prisoner in the District of Albany, under a threat "if he left without a pass he would be breaking the Colonial Laws," and not until a few days previous to the arrival of the Commissioners of Enquiry could he obtain one.

That your Petitioner from time to time transmitted His Excellency the Governor complaints of the Local Authorities, and prayed for public investigation and redress, but all applications proved fruitless.

That your Petitioner immediately on the arrival of the Commissioners of Enquiry on the Frontiers, laid the whole of his statements before them, when they expressed their horror

at such transactions, and thought it one of the cruellest cases they had met with.

That your Petitioner finding their powers did not extend to redress, immediately applied to the Chief Justice at Cape Town for leave to prosecute H. Rivers Esq. and Captain Trappes on the grounds of oppression and injustice. Sir John Truter was pleased (in the name of the Court) to comply with the prayer of your Petitioner, and His Majesty's Fiscal had orders to commence proceedings.

That your Petitioner finding the Fiscal gave vague and unsatisfactory reasons for delaying it, prayed the interference of the Chief Justice, who insisted that an official communication should be made to your Petitioner, which was as follows :

“ His Excellency the Governor having decided thereon, I do not feel myself justified to institute a Criminal Prosecution against any of the Public Functionaries whose conduct you complain of.”

That your Petitioner made repeated applications for the diagram of his land while residing in the Colony, but all applications have proved fruitless; your Petitioner therefore humbly prays your Lordship will be pleased to order that he may receive it.

That your Petitioner in consequence of the detention of his deposit money, his servants being taken from him by a Provisional Magistrate, their rations placed against the credit of your Petitioner's deposit (upon the justness of which your Lordship is now humbly appealed to), the health of himself and family endangered, his property wantonly destroyed, and not being able to obtain any redress has compelled your Petitioner to lay a circumscribed account of his case before your Lordship.

That your Petitioner has a family of four young children, and owing to the severe treatment and sufferings he has experienced during his residence in the Colony of the Cape of Good Hope, has caused a rheumatic affection to contract the sinews of his left hand, and the enormous expences he has been put to in seeking restitution has totally ruined him.

Your Petitioner feels assured your Lordship's serious attention will be given to the unfortunate but detailed statement of your Petitioner, and that your Lordship will be graciously

pleased to grant him such redress, as will enable him to yet go forward with the agricultural pursuits which your Petitioner in 1820 sacrificed the above named property to prosecute.

And your Memorialist as in duty bound will ever pray.

(Signed) JAMES THOS. ERITH.

[Office Copy.]

Letter from VISCOUNT GODERICH *to* MAJOR-GENERAL BOURKE.

DOWNING STREET, 5th June 1827.

SIR,—This letter will be delivered to you by Mr. Thomas Bowles, a Gentleman whom His Majesty has been pleased to select for employment in the Supreme Court of Justice about to be established by a Royal Charter in the Colony of the Cape of Good Hope.

It is not at present in my power to make the necessary communication to you on the subject of this appointment, to which, however, I propose to advert particularly in the dispatches which will accompany the intended Charter of Justice. For the present it may be sufficient to say that the Office to be held by Mr. Bowles will be that of Registrar and Prothonotary of the Court. His duties will in general be to attend all the sittings of the Court, for the purpose of recording its proceedings, and to deliver authenticated copies of such records to all persons entitled to receive them. A much more ample description of these duties will hereafter be transmitted to you, accompanied by a Commission to Mr. Bowles under His Majesty's Signet and Sign Manual.

Mr. Bowles has obtained my permission to repair to the Cape of Good Hope, before the necessary documents can be prepared, in consequence of his having found an advantageous opportunity of making the voyage. Had it not been for this accidental circumstance, he would not have quitted England at present. He will of course be resident in the Colony some time before he can enter upon any official duty. The interval may be conveniently passed in informing himself respecting the practice and proceedings of the present Court of Justice.

A Salary of £600 per annum will be granted to Mr. Bowles, which will commence from the date of his landing in the Colony.

I have &c.

(Signed) GODERICH.

[Office Copy.]

Letter from VISCOUNT GODERICH *to* MAJOR-GENERAL BOURKE.

DOWNING STREET, LONDON, 5th June 1827.

SIR,—With reference to the Instructions which were conveyed to you under date of the 25th of March last for suspending Mr. D'Escury from all public employment for a period of three months, I have to desire that you will take measures for continuing so to suspend him from employment until further orders. I am &c.]

(Signed) GODERICH.

[Office Copy.]

Letter from VISCOUNT GODERICH *to* MAJOR-GENERAL BOURKE.

DOWNING STREET, LONDON, 6th June 1827.

SIR,—Having referred for the consideration of His Royal Highness the Lord High Admiral your dispatch of the 6th of September last, I have to acquaint you in reply that His Royal Highness has been pleased to give directions for the dismissal of Mr. Birkwood from his Office of Deputy Marshal of the Vice Admiralty Court at the Cape of Good Hope. I have &c.

(Signed) GODERICH.

[Original.]

Letter from R. BYHAM, ESQRE., to R. W. HORTON, ESQRE.

OFFICE OF ORDNANCE, 6th June 1827.

SIR,—The Master General and Board of Ordnance in considering the Estimate of Works and Repairs proposed to be carried on during the present year at the Cape of Good Hope, having observed that a part of the General Hospital at Wynberg has been converted to the purpose of a schoolroom and schoolmaster's quarters, for the necessary repairs of which the sum of £139 is included in the above Estimate, and being of opinion that before any money is expended on this part of the building, it ought to be clearly ascertained whether it is an expense justly chargeable to the Ordnance, and not to the Colony; I have the honor to state the same to you, and to request you will submit the question to the Secretary of State for the Colonies, informing His Lordship that the Board consider the expence of keeping this building in repair should be defrayed by the Colony. I have &c.

(Signed) R. BYHAM.

[Original.]

Letter from WALTER BENTINCK, ESQRE., to R. W. HAY, ESQRE.

14 PRINCE'S STREET, HANOVER SQUARE, June 8th 1827.

SIR,—Referring to the verbal communication which at Lord Goderich's desire you had the goodness to make to me the day before yesterday, I have to request you will assure His Lordship that I am truly sensible of his favorable disposition toward me in offering me a situation at the Cape equal in emolument to my office of Auditor General, the salary of which it is now intended to reduce from £1050 to £800.

At the same time I must beg of you to submit to His Lordship's consideration that the state of my health is such as not to allow me to accept so active and laborious a situation as the one now kindly offered to me.

Considering that I have held the office of Auditor General for 19 years with a salary of £1050, as also the situation of

Member of the Court of Justice for 13 years with a salary of £318 (which I am aware will be immediately abolished), moreover that I have been honored with a seat in Council since its first establishment, I hope His Lordship will not think me presumptuous if I venture to express a wish to retire, in case Lord Goderich should think me not undeserving of a reasonable allowance for my length of service. Of all the civil officers sent out from England, I am at this moment the servant of the longest standing on the Cape establishment. I have only to add that I beg you will submit my case to His Lordship's favourable consideration. I have &c.

(Signed) WALTER BENTINCK.

[Hansard's Parliamentary Debates.]

Cape of Good Hope—Petition for a Representative Government.

Friday, June 8th 1827.

Mr. *Baring* rose to present a Petition signed by the majority of the most respectable residents of the Cape of Good Hope, complaining of the maladministration of the affairs of that colony, for some years past. When the House considered that this colony was gradually growing into great importance, he was sure the petition would meet with that attention which it merited. The Cape, it should be remembered, was peculiarly situated with reference to the state of other colonies, where the principles of the British constitution were firmly established. He knew not why a solitary exception should be made with regard to the Cape of Good Hope. It was painful to think that the residents in that colony lived under a system of government, as despotic as that of Turkey. There was no trial by jury; and the lives and property of the colonists were dependent on the arbitrary will and disposal of those who were removable at the pleasure of the governor. Thus circumstanced, the colonists had no other resource than to apply to parliament, for that redress for which they vainly looked elsewhere. Sixteen hundred individuals, composing the respectability and intelligence of the colony, had signed this petition. The petitioners disclaimed any desire to cast any

personal imputations on the character of Lord C. Somerset ; but, whether the malpractices complained of were occasioned by the late governor, or in consequence of orders from home, they, in either case, called for a speedy remedy. For the last fifteen years, a system of maladministration had been pursued in that colony, to an extent which was quite lamentable. The honourable gentleman then referred to the state of the currency at the Cape, and passed some severe strictures on the conduct of those whose duty it was to preside over that department. The simplest clerk in any of the banking establishments of this country would have been utterly ashamed of himself, were he to transact business in the manner which had been practised at the Cape. These were subjects which he had no doubt would be looked into by the noble lord now at the head of the colonial department ; but he must say that no slight or partial measure would remedy the evils of which the petitioners complained. It would be necessary to give to the inhabitants of that colony some authority in the colony to which they could make their complaints, and in which they could place confidence ; for hitherto they had no such resource. His opinion was, that the colonists should possess some local popular organ, through which their complaints might be made public. At the present moment, the only answer made to persons making complaints in print was, to send them out of the country. This course was recently adopted towards an individual, whose only offence was publishing some extracts from the London papers. He thought the colonists of the Cape were entitled to have some legislative body which should exercise a power independent of the governor. There should also be made an improvement in the judicial system, by rendering the judges independent of the governor. These changes would have a most salutary effect on the colony, by giving the people an influence in the institutions by which they were governed. He would not take up the time of the House longer, but move that the petition be brought up.

Mr. *W. Horton* was far from thinking that the prayer of the petitioners was undeserving of attention ; but he must, in the outset, protest against what seemed to be assumed by the honorable gentleman, that up to the present moment, nothing had been done to ameliorate the condition of the inhabitants

at the Cape, and that now, and now only, some steps for that purpose were commenced. This mode of dealing with the question was, he considered, extremely unjust to the late administration of the colonial department. The colony of the Cape was, it should be recollected, ours by conquest, and from the commencement was governed by laws, wholly different from ours; but it had been the endeavour of the colonial department gradually to assimilate them to ours. In 1822, he himself moved in that House for the appointment of a commission (which was now mentioned as if it was heard of only for the first time) to make inquiries into several departments of government at the Cape. That commission was, for a considerable time, in active employment, and much of the result of its labours were already before the House. Was it not, then, most unfair to state, that now for the first time steps were taken by the colonial department to improve the condition of the colony? It had been said by the honourable member, that a kind of legislative assembly or representative government should be given to the inhabitants of the Cape. Were not honourable members aware, that the Mauritius, Ceylon, New South Wales, Van Dieman's Land, and other British colonies, were without representative governments, though it was well known that some of them were inhabited almost exclusively by Englishmen, or their descendants? But, even to this point the attention of the colonial government had been given. He would read to the House an extract of a letter from General Bourke to Lord Bathurst on this subject. Here the right honourable gentleman read the extract, in which the General, after pointing out many changes in the administration of the colony, observed, that the inhabitants did not possess within themselves the materials for forming a representative body. He did not even think that they were fit to enjoy the benefit of trial by jury, except in criminal cases. It was proposed to establish a council similar to the India council. It was also intended to have a reform in the judicial system of the colony; and with these alterations, he thought it better to wait until the colony was ripe for a more enlarged scale of improvement, than to begin with a system which the colony was not in a condition to receive. Many improvements in the administration of the colony were already

in progress, the result of diligent investigation, which had been carrying on for the last four years. It was no valid objection to the administration of the colony to say that, for some years, its currency had been in an unsettled state. The same might be said of the currency of this country for many years ; during which much ignorance prevailed on subjects connected with it, on which, within the last few years, much sounder principles prevailed. The establishment of one general standard for the currency of the colonies would be productive of much benefit, in this respect. He would now advert to a subject of a nature personal to himself. He alluded to a pamphlet which had recently been published by Sir Rufane Donkin, reflecting on what he (Mr. W. Horton) was supposed to have said, in that House. This mode of proceeding on a public question was, to say the least of it, very inconvenient ; for the gallant officer might have brought the subject before the House by petition. In that pamphlet, he (Mr. W. Horton) was made to say, that Sir R. Donkin had offered to make charges, and then withdrew them. Now, he had never said any such thing ; but he had read a letter, in which Sir Rufane declared, " that he had that to disclose, which would cover Lord C. Somerset with ruin." A letter was written by Lord Bathurst's order, calling on the gallant General to produce his charges ; and he then denied that he had any charge to make, or that he had intended to make any. He said, he had no direct charges to bring, but that he would make disclosures. Now, in the ordinary acceptance of language, when a man said he had disclosures to make which would cover another with ruin, was it not natural to suppose that he had in his possession matters of charge against the party alluded to ? He was not called upon to bring forward a public accusation, or to impeach Lord Charles Somerset. He was only required to bring forward his disclosures ; and then he stated, that he had no charge to make. But the fact was he had no disclosures to make, which were not already known to the colonial department through other sources.

Mr. *Maberly*, in reference to what had fallen from his honourable friend (Mr. Baring) respecting the alleged maladministration of the colony for fifteen years, observed, that such a sweeping charge would unjustly include the government of the

colony during the administration of Sir R. Donkin. It should be borne in mind, that at the time Sir R. Donkin left the Cape he received the most marked testimonials of the approbation of the colonists. He had also the entire approval of His Majesty's Government at home. There was no ground, therefore, for including his government in the administration spoken of. He had found the finances of the colony in a very embarrassed situation ; but he had so improved them, that at his departure he left 125,000 rixdollars in the treasury. With respect to the pamphlet, he did not advise, or approve of, its publication ; for he agreed that it was a very inconvenient mode of discussing the merits of a public question ; but he must say, that Sir R. Donkin was at all times ready to state his disclosures, provided an opportunity were given to him. This was fair ; and all that could be expected from the gallant officer.

Mr. *Hume* said, there were great difficulties in the way of Sir R. Donkin's bringing forward a public accusation, which, if he were anxious to undertake the task, he would be unable to surmount, without the aid of the colonial department. The heads of that department owed it to the colonists to institute an enquiry, where their interests were concerned, and when important charges were offered to be proved. As it was acknowledged, that the colonial department had long been aware of the disclosures which Sir R. Donkin could have made, it reflected strongly on them, that they had not instituted some inquiry on the subject.

Mr. *Canning* asked whether any department could pursue a course more fair than that which had been taken by Lord Bathurst on this occasion ? A gallant officer came forward and stated, that he was in possession of information which would be the ruin of the head of one of the colonial governments. What could Lord Bathurst imagine from that, but that the individual making the offer was prepared to bring forward his charge ? So far from thinking that the noble lord had not gone far enough in giving him the opportunity, he was of opinion that he had gone rather too far. If it were his own case, he would say, that it was not unfair to call on the individual making the offer (approver or informer he would not call him) to bring forward his statement. He would have gone further

and asked him to give his information in writing. It would never, for a moment, have entered into his head to have received his disclosures at a private interview, and to leave the question, as to the nature of the information given, to depend afterwards on the veracity of him or his informant. He would never have admitted him to such interview, unless a third party was present, to take down all that was communicated. Instead, therefore, of believing that any ground of complaint existed, on the score of the information having been rejected, he thought a question might arise, that it was too easily admitted. But did the noble lord, then at the head of the colonial department, stop there? On the contrary, he made enquiry at the Cape into the matters which, from other sources, were known to constitute the offered disclosures, and the result of that inquiry would, in a short time, be laid before the House. Now, whether the conduct of Sir R. Donkin was too rash at first, he would not say, as that was not the proper time or place for entering into the affair; but he must observe, that as the head of a department, the conduct of the late colonial secretary was throughout unexceptionable.

Mr. *Hudson Gurney* said, that he thought it must be sufficiently difficult, even for the government itself, to appreciate the truth of these conflicting allegations. Those in the employ of government would hardly venture to give very perfect information; whilst it was notorious that, amongst the Dutch inhabitants, there was that terror of the local authorities, that however loud their complaints to individuals, they were not found to come forward to substantiate their statements; whilst, on the other hand, those made by disappointed settlers were obnoxious to great suspicion. It was, however, evident, that no time should be lost in framing such institutions as should give to the inhabitants of that colony some sense of individual security; not only with a view to their own well-being, but as creating a greater attachment in so important a possession to the rule of England than probably now subsisted. There was one class of persons, Mr. Gurney added, the creditors of the Orphan Chamber, previously to the capture by the English, whose case he still hoped would not be lost sight of by government; and who appeared to him to be beyond question entitled to redress.

Baring said, that let the colonial department ask any inhabitants, not actually in office there, and they would be unanimous in their opinion of the maladministration which the colony was so long afflicted. As to the commission which had been sent out, he believed it was agreed on all hands, that its chief results were increased charges and expenses, without any practical benefit to the colony. Was it well known that there was no such thing in the colony as liberty of the press, that the judges were removable at will of the governor? And he would ask the veriest Tory at it, or what was worse, in the other House of Parliament, what a state of things under which Englishmen ought to be allowed to continue? It was said, that other English colonies had no representative government. So much the greater disgrace to the government at home, if they were in a condition to receive it. If the right honourable gentleman refused to give a representative government until the colonies were ready to receive it, he would tell him that they would never be ready until they got it. If he treated them like children, and never set them on their legs, they would never be able to act like men. If the right honourable gentleman withheld institutions from the colonies, until they were fit to receive them, he would tell him that, if he lived ten centuries, he would never see them in a proper state to receive them. He meant to cast no aspersions on the government of Sir R. Donkin. He knew nothing of it. As to that of Lord Caledon, he believed the noble lord did as much as any man could do to make despotism tolerable; but Englishmen should not depend for their prosperity or comfort, on the personal feeling of any governor.

Ordered to lie on the table.

[Original.]

Letter from MAJOR-GENERAL BOURKE to EARL BATHURST.

GOVERNMENT HOUSE, CAPE TOWN, June 10th 1827.

In reply to your Lordship's Circular despatch of the 27th of May last, I have the honor to state that no change has been made to the geographical or

topographical description of this Colony for the last two years, the means of procuring the necessary information having been withheld by His Majesty's Government, and the finances of the Colony not allowing any expenditure to obtain it. The survey was formerly carried on under the direction of the Commanding Royal Engineer, at an annual expense of about £500, at first paid by the Ordnance and subsequently out of the Army Extraordinaries. Some progress was made in the work, as reported to your Lordship in my despatch of the 2nd April 1826, and I regret that it has not been deemed advisable to continue it.

Copies of the required Orders and Proclamations are herewith enclosed. I have &c.

(Signed) RICHD. BOURKE.

[Enclosure 1 in the above.]

Proclamation

By His Excellency George Earl of Macartney, Viscount Macartney of Dervock, Baron Macartney of Lissamore in the Kingdom of Ireland, Baron Macartney of Parkhurst and of Auchinleck in the Kingdom of Great Britain, Knight of the Most Honorable Order of the Bath, Knight of the most Ancient and Royal Order of the White Eagle, one of His Majesty's most Honorable Privy Council, Governor and Commander in Chief of His Majesty's Castle, Town and Settlement of the Cape of Good Hope in South Africa and of the Territories and Dependencies thereof and Ordinary and Vice Admiral of the same.

Whereas hitherto no exact Limits have been marked out respecting the proper Boundaries between the Colony, the Caffres and the Bosjesmen; and in consequence of such Limits not being regularly ascertained, several of the Inhabitants in the more distant parts of this Settlement have united in injuring the peaceful possessors of those Countries, and under pretence of Bartering Cattle with them, reduced the wretched Natives to misery and want, which at length compels them to the cruel necessity of having recourse to robbing and various other irregularities in order to support life :

I therefore after having previously taken proper information on the subject have thought it expedient for the promoting the welfare of this Settlement, and establishing good order in the remote districts of it, to fix the following mentioned places to be in future the Boundaries of the Colony, viz.

Between the Inhabitants of Graaff Reinet and the Caffres

1st, The *Great Fish River* as far as the *Esterhuyze's Poort* at the *Kachas Tail*,

2nd, The whole of the *Kachas Mountains* as far as the *Tarka Mountains*,

3rd, From the *Tarka* to the *Bamboes Mountain*,

4th, From the *Bamboes Mountain* to the *Zuure Mountain*,

5th, From the *Zuure Mountain* to the *Edele Heer's Beacon* situate on *Zeekoe River*,

6th, From the *Edele Heer's Beacon* across the *Zeekoe River* as far as the *Great Table Mountain*,

Forming thus a semicircle from the East Coast at the outermost Limit to the West ;

And between the Inhabitants of Stellenbosch and Drakenstein and the Bosjesmen,

7th, The *Nieuwe Veld Mountains*,

8th, The *Reed and Fish Rivers* behind the *Roggeveld Mountains*,

9th, The *Spion Mountain*,

10th, The *Kobies Kouw*,

11th, The *Long Mountain*,

12th, The *North* corner of the *Kamies Mountain*, and

13th, The *River Koussie*.

And whereas it is necessary that these Boundaries should be duly observed, I therefore most strictly forbid all and every one of the Inhabitants of this Colony from either Settling themselves or permitting their Cattle to pass beyond those Limits under the penalty of immediate Confiscation of all their Cattle to be applied to the benefit of the Colony, and as disobedient Subjects to be banished from this Settlement.

And it is also hereby declared unlawful under pain of Corporal punishment for any person under pretence of hunting Seacows or Elephants or of taking a Journey into the Interior part of the Country, to pass beyond the aforesaid Limits, unless he shall be provided with a pass in writing from the

Governor, which pass is then to be exhibited before the Fiscal and the Landdrosts of the three Country Districts.

And in order that no person may be able to plead ignorance hereof, I do hereby Order and Command, and it is hereby Ordered and Commanded, that Copies of this Proclamation on its being duly published, shall be stuck up in Cape Town and likewise be sent to all the Veld Wachtmeesters residing next the aforesaid Boundaries, and that the Landdrosts of the several Districts do take care that the same shall henceforth be strictly observed and adhered to.

Given under my Hand and Seal at the Castle of Good Hope this 14th day of July 1798.

(Signed) MACARTNEY.

By His Excellency's Command,

(Signed) A. BARNARD, Secretary.

[Enclosure 2 in the above.]

Proclamation by the Earl of Caledon, dated 23rd April 1811. See Volume XXIV, page 447.

[Enclosure 3 in the above.]

Proclamation by Lord Charles Somerset, dated 27th November 1818. See Volume XII, page 62.

[Enclosure 4 in the above.]

Proclamation by Sir Rufane Donkin, dated 13th October 1820. See Volume XII, page 296.

[Enclosure 5 in the above.]

Proclamation by Lord Charles Somerset, dated 5th March 1824. See Volume XXV, page 192.

[Enclosure 6 in the above.]

Government Advertisement of 11th March 1825. See Volume XXV, page 230.

[Original.]

Letter from MAJOR-GENERAL BOURKE to EARL BATHURST.

GOVERNMENT HOUSE, CAPE TOWN, 11th June 1827.

MY LORD,—At the request of Captain Evatt, Government Resident and Commandant at Port Elizabeth, Algoa Bay, I have the honor to transmit for your Lordship's consideration a Petition with its accompanying documents addressed by that Officer to your Lordship, on the subject of a vessel seized by him in the year 1822 for having on board two slave children, contrary to law. I have &c.

(Signed) RICHD. BOURKE.

[Original.]

Letter from T. P. COURTENAY, ESQRE., to R. W. HAY, ESQRE.

ABINGDON STREET, June 11th 1827.

SIR,—In compliance with the instructions from His Excellency the Lieutenant Governor of the Cape of Good Hope, which were authorized by your letter of the 11th of April, I have engaged Mr. Stephenson, a gentleman recommended by the National School Society, as English Teacher at the Cape.

Under the conditions prescribed by His Excellency, the gentleman now engaged will be provided by me with a free passage to the Cape, the cost of which I have ascertained to be fifty pounds, but he has also requested that an advance of salary, to the amount of thirty pounds, may be made to him in this Country, to enable him to provide the necessary outfit, which advance he will repay at the Cape. I have, therefore, to beg that you will obtain the authority of Viscount Goderich for my making this advance, in addition to paying the cost of Mr. Stephenson's passage. I have &c.

(Signed) T. P. COURTENAY,

Agent for the Government of the Cape of Good Hope.

[Original.]

Letter from J. WYLDE ESQRE. to R. W. HAY, ESQRE.

2 VICTORIA BUILDINGS, 11th June 1827.

SIR,—In the expectation of shortly quitting this country to assume the office of Chief Justice of the Colony of the Cape of Good Hope. I take the liberty of soliciting you to call the attention of Lord Goderich to the request which I am about to prefer.

You are aware that the office of Chief Justice of that colony has hitherto been held by a Gentleman who has received the honor of Knighthood.

However little value may, in this country, be attached to a distinction of that nature, I cannot but think that in a colony inhabited chiefly by Foreigners, there may be a real advantage both to myself and the public Service in my receiving the title which has been borne by my predecessor. Nor do I affect to deny, that after my long course of public service any mark of the approbation of the Secretary of State would be highly grateful to my feelings.

As I understand that a meeting of the Council must be held before the Prorogation of Parliament, and as no similar opportunity may occur before my leaving England, I would further take the liberty of requesting an early answer to this application, in order that I might be presented to His Majesty at his Court, at the next Council day, if Lord Goderich should be pleased to accede to my present request. I have &c.

(Signed) JNO. WYLDE.

[Printed Copy.]

Papers explaining the cause of LORD BATHURST'S last interference with the Press at the Cape of Good Hope.

Advertisement.

The following documents I have procured and caused to be printed, partly in my own defence, against the absurd charge of having copied from the Times of January 25, 1826, "a statement which has been represented by Lord Charles Somerset

to be of a *false and calumnious nature* ; ” and partly to put the friends of the Colonies in possession of a short and intelligible specimen of the system pursued by the late Secretary for the Colonies, and his Governors, in cases where the rights, property, and honour of His Majesty’s British born subjects were concerned. To imagine that such could be a solitary instance of oppression at the Cape, would be to be ignorant of the nature of man. Had the conscience of the two persons now implicated, been at rest, they would either have encouraged or despised the Press. But from the first moment that public attention began to be drawn by its means to the long arrear of wrong, outrage, and cruelty inflicted on the defenceless inhabitants of that Colony, scarcely a month has elapsed in which some attempt has not been made to baffle or to crush it. These attempts have hitherto not only failed, but by startling the people, they have greatly promoted the growth of that inquisitive spirit among them, which will render misgovernment in future a difficult task. In the present instance, as our enemies have shewn more than usual indiscretion, their defeat will be more speedy, and complete. The time for the act was ill chosen, the people’s minds being excited by the presence of a Commission of Inquiry, on the decisions of which rested the value of their property, and by which the nature of their prospects were to be decided for ever ; and just at the instant when they were about to be put in possession, by means of the periodical press, of the all-important “ Report,” that press was stopped. The method of doing this was ill-judged. The Proprietors had a written agreement with Earl Bathurst to the effect that their license should be liable to be cancelled by the Governor in Council only, and not by the Governor alone. But a positive order was forwarded from Downing-street, commanding the Lieutenant Governor, (without reference to the Council,) to perform this act by himself. The ground was badly selected, for the obnoxious “ statement ” was not an original article, but an extract faithfully copied from the Times ; it was true ; and many circumstances of an aggravating nature were omitted by the writer ; so that the individual who represented it to be of a “ *false and calumnious nature*,” must retract his words, and submit to bear the implied title himself.

But the worst is behind ; for “ Mr Buissinne’s Case,” or

Trial, for reprinting a statement of which the South African Advertiser was stopped, turns out to be one of singular hardship and harshness, informal, unjust, and illegal. Mr. Buissinne was the Receiver of Land Revenue. He was extravagant, and had employed in satisfying his more urgent creditors, a sum of public money to the amount of about £3000. For one half of this his Securities were bound to Government. For the other half, he had property to offer to about three times the amount. His books were correct, for it was by comparing them with his Bank account, that his default was detected, so that it is clear he had not contemplated a fraud. He surrendered his estate, resigned, and was gazetted out. Thinking himself ill-used, and being as he says "mad" at the time, he wrote what was called a libel on Lord Charles Somerset. Lord Charles immediately (on the Sunday, it appears) put a *copy* of this supposed libel, together with the previous affair of the default, into the hands of the Public Prosecutor, who, on the same Sunday, called together the members of the Court of Justice from their devotions in Church, accused Buissinne in his absence, (he being then at dinner with Col. Bird, his brother-in-law, six miles out of town,) *of fraud and embezzlement, aggravated by libel!*—obtained a decree for his apprehension, and had him safely lodged in jail on the afternoon of the same Sunday. When his trial came on, the Public Prosecutor confessed that he was wrong in having indicted him for fraud, and withdrew that count. He gave up the charge of libel also, as he said at the request of Lord Charles Somerset, so that the item of embezzlement alone remained. From the single fact that after his default was made known officially to the Governor, he had been allowed to resign his situation on satisfying the claim of Government, this was no longer a ground for criminal prosecution. So say the lawyers. A gentleman would say, that at all events the person who had compromised with him, and accepted his resignation, could scarcely be expected to instigate that prosecution. Be this as it may, he was tried for embezzlement only. But, unluckily, the Dutch Law * pre-

* This (Dutch) Law has been much traduced of late. The acts of which we complain at the Cape, so far from being forced on the Governor by the Dutch Law, are in direct contravention of that Law, and of every other Law known among civilized nations. The present is a case in point.

scribes in such a case only dismissal from office, and restitution of three times the value, at the discretion of the Judge. The first part was forestalled, for Buissinne had resigned, and his resignation had been accepted, and published in the Cape Gazette. The second part was easy, for he had given up effects and securities to nearly that amount, (that is to *three times* the amount of his default,) and must have answered in his person for what remained, if his brother Judges thought fit to make a terrible example of him. But then he could neither be incarcerated, which seems to have been resolved on beforehand, nor banished as a felon. The Court accordingly, in order to gain this object, found him guilty of embezzlement, AND PERJURY, and condemned him to imprisonment and banishment. This aggravation was founded on the idea that every man in office who has sworn to do his duty, by failing in the smallest particular, is guilty of the crime known in law by the name of "Perjury,"—a tremendous crime, by which a man loses his moral and political existence in society.* But after the sentence was passed and published to the world in the Gazette, it was discovered that Buissinne had never taken the oath of office. Lord Charles therefore was compelled on giving his *fiat* to the sentence, to strike out the chief crime—"and the punishment of that crime?" No, he retained the punishment!

But the whole case has been so fully and ably detailed by Colonel Bird, and proved by Mr. Advocate Brand, in their letters to me, which I now present, together with the authenticated Copies of the proceedings, held on the case before the Court, that it is unnecessary to add another word upon it.

With regard to the other documents here printed, namely, the Address of the Inhabitants, the Resolution of the Commercial Committee, and the reply of the Council to a respectful request of the inhabitants for leave to hold a public meeting, I publish them merely to show that in the opinion of the most competent judges, the Newspaper, which I conducted, was useful to the Colony, that it disseminated good principles, and that the suppression of it is regarded by the unfortunate inhabitants of the Cape as a public calamity—one among the

* Is this Law in England? The Dutch Law rejects it, I am told.

many which they owe to their present Governor. They prove also that the unfavourable view of the Cape-Dutch character, so often repeated by interested or incapable writers, is wholly unfounded. Place an English borough, containing no more than ten or twelve thousand inhabitants, under a despot, let every office in it be at his disposal, let them know of no appeal from his oppressions, and see whether, in a case like the present, they will exhibit the same spirit, temper, and fairness, as has been evinced by the people of Cape Town. The same character pervades the population of the country districts. For industry, frugality, filial attachment, and all the *feature* virtues of a rising community, they would stand high in comparison with any nation on record. Their love of freedom, also, is strong and unquenchable, and their notion of it is simple and just. They despise declamation, and seldom, if ever, pronounce the word *liberty*. But speak to them of security for person and property—of the power of checking a bad or foolish Governor by a popular assembly,—of aiding the Judge in the discovery of truth, and of standing between the accused and the rancour and blindness of a political bench—of regulating the taxes by the local knowledge of those who have to pay them—speak of these things, and you will perceive at once that without having read, they have the law of liberty written in their hearts. Are such a people to be for ever trampled under foot? Is there no moderation, no sympathy, no pride in England, that, for its own honour, will put an end to the abominable scene of oppression, insolence, and bad faith practised so long in this settlement? What gain has England in our loss? By what have we merited such treatment? We have cost her neither blood nor treasure. We never wronged her. How, then, is it, that while she boasts of her high principles, we receive only contempt, or irreparable injury at her hands?

I have laboured, and (as I am told) with success, to satisfy the Colonists at the Cape that the people of England, the Government, and the Sovereign, are ignorant of the iniquities perpetrated by the subordinate Functionaries in the Colony under the sanction of their authority. An Appeal has now been made to the King and to Parliament. To the English Press, and to the People themselves, we also look with anxiety. May God grant that the prayers and remonstrances of a com-

munity driven almost to despair, may at length be favourably heard.

JOHN FAIRBAIRN.

LONDON, *June* 11, 1827.

Papers referred to in the Preceding Advertisement.

No. 1.

COLONIAL OFFICE, *March* 10, 1827.

SIR,—I am directed by His Honour the Lieutenant-Governor, to inform you, that in consequence of a publication in the South African Commercial Advertiser, of Wednesday the 24th of May last, containing a Statement entitled “Mr. Buissinne’s case,” and which has been represented by His Excellency the Governor Lord Charles Somerset, to be of a false and calumnious nature, His Honour has received instructions from His Majesty’s Secretary of State for the Colonies, to cancel the license under which you are allowed to print and publish that Journal.

You will, therefore, from this date, consider that license as cancelled, and of no effect. I have &c.

(Signed) RICHARD PLASKET,
Mr. George Greig. Secretary to Government.

No. 2.

COLONIAL OFFICE, *13th March*, 1827.

GENTLEMEN,—The Lieutenant-Governor having submitted to Council the application which you addressed to me under yesterday’s date, I am directed by His Honour to transmit to you the resolutions of Council thereon. I have &c.

(Signed) RICHARD PLASKET,
Secretary to Government.

Messrs Ewan Christian,

Stephen Twycross, and the other [fifty-one] inhabitants of Cape Town, who addressed an application to Government, under date 12th March, 1827, for permission to hold a public meeting to take into consideration the circumstances attending the suppression of the South African Commercial Advertiser.

COUNCIL OFFICE, 13th March, 1827.

Copy Resolution of a Council held this day.

Present : His Honour Major-Gen. Bourke, C.B. Lieutenant-Governor.

The Hon. Sir John Truter, Chief Justice.

Sir Richard Plasket, Colonial Secretary.

Lieutenant-Colonel Daniell, second in command.

Lieutenant-Colonel Bell, C.B.

J. W. Stoll, Esq. Receiver-General.

The Council, having taken into consideration a Memorial addressed to His Honour the Lieutenant-Governor, by several of the inhabitants of Cape Town under date the 12th instant, wherein permission is requested to hold a public meeting, "for the purpose of taking into consideration the circumstances attending the suppression of the South African Commercial Advertiser Newspaper," are of opinion, That this Government has always shewn its readiness to comply with any request for permission to hold a public meeting for the purpose of discussing any measures of general policy affecting the interests of the Colony, but that the declared object of the meeting, for which permission is now requested, being to deliberate upon an act of His Majesty's Government in the case of an individual, the Council are of opinion, that the prayer of the Memorialists cannot be complied with.

And His Honour the Lieutenant-Governor is requested to cause a copy of this Resolution to be transmitted to the Memorialists.

A true copy. (Signed) D. M. PERCEVAL,
Clerk to the Council.

No. 3.

COMMITTEE ROOM, 15th March, 1823.

DEAR SIR,—It affords me much pleasure in transmitting to you the enclosed Copy of the Resolution of this Committee, requesting you to permit us to enrol your name on our Records, as an Honorary Member. I remain &c.

(Signed) EWAN CHRISTIAN, Chairman.

John Fairbairn, Esq.

Copy of Resolution.

At a Meeting of the Committee of the Commercial Exchange held at the Committee-Room, Cape Town, on the 14th March, 1827,

Resolved unanimously, That Mr. John Fairbairn, Editor of the South African Commercial Advertiser, having announced his intention of returning to England, in consequence of the suppression of that Newspaper, by order of the Secretary of State for the Colonies, the Chairman be directed to request Mr. Fairbairn to become an Honorary Member of the Commercial Exchange, as a mark of the high sense entertained by this Committee of the advantages derived by the mercantile community in particular, and by the inhabitants of the Colony generally, from the establishment of that Journal, and from the able and independent manner in which it has been conducted by him.

That the Chairman be also directed to express to Mr. Fairbairn, the sincere regret which is felt by the Members of this Committee, at the measure which has rendered it advisable for him to leave the Colony, trusting, however, that the justice of His Majesty's Government, by the establishment of a free press, will enable him speedily to resume his labours amongst us, the suspension of which, especially at this juncture, is regarded by this Committee as a public calamity.

(Signed) EWAN CHRISTIAN, Chairman.

No. 4.

CAPE TOWN, 13th March, 1827.

To JOHN FAIRBAIRN, ESQ., Editor of the South African Commercial Advertiser, Cape Town.

SIR,—We the undersigned Inhabitants of Cape Town and its Vicinity, have learned with the utmost concern and regret that an Order from Earl Bathurst, his Majesty's Secretary of State for the Colonies, has been received by the Colonial Government, to prevent any further publication of the South African Commercial Advertiser.

Deeply as we lament this circumstance, but forbearing to enquire into the motives which may have induced His Majesty's Secretary of State for the Colonies to adopt this measure, we cannot withhold the expression of the satisfaction which the paper has so generally given us, and the loss which, in our opinion, the Colony will sustain by its suppression.

In a Colony circumstanced as is the Settlement of the Cape of Good Hope, where a small population is scattered over an immense tract of country, and where the progress of improvement and the diffusion of enlightened ideas are consequently retarded by the difficulty of communication, a newspaper conducted with the ability and integrity which were displayed in the columns of the Advertiser, affords instruction to the people, and by inducing them to reflect on their true interests, renders them more useful members of Society. The deprivation, therefore, of this benefit is severely felt by us, as an incalculable loss to the Colonists in general.

It would be superfluous to enumerate the benefits, nay the blessings, which would result to this Colony, from the establishment of a free press. These have become apparent from the good effects resulting from the circulation of your independent Journal, by which, we take the whole Colony to witness, the principles of loyalty, morality, and good order, have been constantly maintained and enforced.

In allusion to the blessings of a free press, we cannot, however, refrain from remarking one circumstance, peculiarly affecting this Colony, namely, that had your valuable Journal existed from the year 1814, the destructive depreciation of the paper currency, with the consequent waste of property and ruin of many respectable inhabitants, would have been foreseen and prevented.

Considering that it is necessarily the lot of the upright conductor of a political publication to point out and expose public abuses wherever they may be found to exist, we beg leave to express our conviction of the impartiality and fairness with which you have performed this painful part of your duty.

We earnestly trust that you may once more be enabled to resume the Editorship of the South African Commercial Advertiser, repeating that we regard the loss of it as prejudicial to the best interests of the Colony.

In conclusion we beg to assure you, that we sincerely sympathize with the proprietors of the Paper, who are exposed to such unexpected losses by its suppression ; and, wishing you a prosperous voyage, and that we may speedily have the pleasure of again seeing you amongst us, we beg to subscribe ourselves, with respect and esteem,

Sir,

Your obliged and obedient Servants,

(Signed)

W. HAWKINS, (agent for the Hon. East India Company.)	G. A. WATERMEYER, (book-keeper, Orphan Chamber)
J. A. DE WET, (advocate.)	A. CARSTENS.
T. WOUTERSEN, (merchant.)	H. O. EKSTEEN.
P. H. WOUTERSEN, (merchant.)	J. J. KOTZE.
F. H. FR. C. L. WEHR, (M.D. and member of Medical Committee.)	J. INGRAM.
A. V. BERGH, (merchant.)	J. K. VAN OOSTERZEE, M.D.
W. LIESCHING, (merchant.)	M. A. SMUTS.
WM. ROBERTSON, (merchant.)	H. Vos, (wine merchant.)
JOHN VAN DEN BERG, (merchant.)	A. BRINK.
STEPHEN TWYCROSS, (merchant.)	B. C. HOETS, (merchant.)
JOSEPH LEVICK, (merchant.)	JAN HOETS.
C. LIESCHING, (apothecary.)	J. L. WAHL.
H. G. MUNTINGH.	P. H. POLEMANN, (chemist.)
G. F. STEGMANN.	M. THALWETZER.
S. B. VENNING, (merchant.)	W. E. FAURE.
A. CHIAPPINI, (merchant.)	JO. S. STURGES, (notary public.)
A. FAURE Jz, (advocate.)	EWAN CHRISTIAN, (merchant.)
C. J. BRAND, (advocate.)	GEORGE THOMAS.
A. FAURE, SEN.	W. L. VON BUCHENRODER.
G. BLANCKENBERG, (heemraad.)	CHARLES HANCKE.
W. HOFMEYR.	JAMES CARFRAE & Co. (merchants.)
C. KORSTEN, (merchant.)	JOSEPH DIXIE, (broker.)
J. A. SMUTS.	THOMAS LONG, (master mariner.)
J. A. JOUBERT, (advocate.)	C. M'KENZIE.
H. TEUBES.	JOHN DEANE.
J. J. L. SMUTS, (secretary, Orphan Chamber.)	JOHN FELL.
	A. G. OLTHOFF.

G. E. OVERBEEK, (member of Orphan Chamber.)	J. H. LESAR.
JOHN SAUNDERS.	CHS. H. M'COMB.
S. CAPON.	A. T. STADLER.
J. F. STOBER.	E. K. GREEN.
N. STENHOUSE, (brewer.)	W. F. VERSFELD, (heemraad, Cape District.)
E. G. BAILEY.	JOHN CHISHOLM, (civil en- gineer.)
D. ROUX.	JOHN THOMAS BUCK, (mer- chant.)
J. ROUSSEAU, (wine merchant.)	R. STONE, (merchant.)
JABEZ HART.	FRAN. MABILLE, (merchant.)
PHILIP HART.	JOHN HAWKINS, (merchant.)
R. W. EVANS.	ROBERT REEVES, (merchant.)
J. D. GREGORY.	THOMAS SUTHERLAND, (mer- chant.)
J. KNOBEL, (government sur- veyor.)	EDM. L. KIFT.
W. HAWKINS, (merchant.)	THOMAS HARRIS.
H. RUTHERFOORD, (merchant.)	THOMAS THWAITS, (brewer.)
THOS. TENNANT, (merchant.)	J. P. SIMPSON, (merchant.)
ROBERT EAGER.	W. GADNEY, (merchant.)
R. J. JONES, (merchant.)	P. L. CLOETE, SEN.
EDW. FLAHERTY, (merchant.)	P. L. CLOETE, JUN.
THOMAS ANSDELL, (merchant.)	W. MASKEW.
J. BARKER, (notary.)	A. STEADMAN, (merchant.)
W. BILLINGSLEY, (merchant.)	P. MESTARE.
DAVID STILL, (merchant.)	J. W. J. VERSFELD.
GEO. ANDERSON, (merchant.)	J. VERSFELD, M.D.
JAMES ILES, (distiller.)	HAM. ROSS, (merchant.)
WILLIAM HUTCHONS, (sail maker.)	G. W. PRINCE, (merchant.)
J. P. Vos, (wine merchant.)	P. ALBERTUS, (merchant.)
JOHN WARDEN.	J. S. MERRINGTON, (notary.)
SAMUEL BAILEY, (surgeon.)	A. S. ROBERTSON.
F. SMITH, (merchant.)	

No. 5.

GREEN POINT, *March 22, 1827.*

SIR,—In reply to your application to me for information relative to the case of Mr. Buissinne, late Receiver of Land Revenue in this colony, for copying a statement of which case

from the Times Newspaper, the South African Commercial Advertiser, of which you were the Editor, has been suppressed by order of Government, I beg to inform you that I was not made officially acquainted with the criminal proceedings instituted against Mr. Buissinne, or with the official communications made to the Home Government thereon ; but in the early stage of his case when his default was first notified, Lord C. Somerset communicated the circumstance to me by a note, dated 29th of October, 1823, in which he desired that the Sequestrator should be directed to seize all Mr. Buissinne's effects forthwith. I verbally represented to Lord Charles, that the mode suggested by him would be illegal, independent on any proceedings at law to warrant it, but that I understood Mr. Buissinne was ready to surrender his property in satisfaction of his debt. Lord Charles agreed that this course would be sufficient, and Mr. Buissinne did give up his effects, in consequence, to the Sequestrator, which effects, together with the security he had entered into on taking office, were sufficient to cover his debt to the public, as was certified by the Sequestrator, and moreover the public gained £500 (the Sequestrator's charge) by the transaction ; the account of that department remaining in my possession, I hand it to you herewith. Mr. Buissinne was then allowed to resign his situations of Receiver of Land Revenue and Member of the Court of Justice, and an official letter to that effect was written to him from the Colonial Secretary's office. Here then was considered to have terminated the subject of his default. In consequence, however, of the Governor's having ordered the Printer of the Government Gazette to employ another person to effect his private transactions in the room of Mr. Buissinne, by which he deprived the unfortunate man of his sole means of subsistence, a measure which was well calculated to wound him in the tenderest point, as he had a large family, he wrote some imprudent letters to a supposed friend, in which he reflected in terms of asperity upon Lord Charles Somerset, and upon the person who was raised upon his downfall, a Mr. Horak, son-in-law of the Chief Justice, whom he designated as Lord Charles's "gambling friend." This great imprudence appears to have been the cause of his subsequent misfortunes, for on Sunday the 2nd of November, Lord Charles wrote to me a second note,

in which he informs me that Mr. Buissinne, having written the aforesaid letters, to which publicity had been given, he, the Governor, had placed the whole in the hands of the public prosecutor. It follows, therefore, that the offensive letters caused the prosecution, for the default had been previously satisfied, but was now raked up to gratify the revengeful feelings excited by the letters, and it is here to be noticed that the Chief Judge having been personally injured by the reflection cast upon his son-in-law, ought not, according to the practice of the Courts here, to have sat, as he did, in judgment on this case. Lord Charles' notes to me, with copy of my reply to the last, are in England, with the mass of my papers ; but I will give you an order for obtaining authentic copies of them, and access to the originals, should it be requisite.

The sequel of this affair is known to you, and can be proved to demonstration by incontrovertible documents ;—that a Special Court was assembled on Sunday the 2nd of November, 1823, the Members of the Court having been called out of Church to attend at the house of the Chief Justice, as if the ordinary course of procedure had been insufficient ; that Mr. Buissinne was arrested in my house on the same Sunday, and carried from thence to prison, in Cape Town ;—that he was indicted for the crimes of peculation and libel ;—that he was tried before two Commissioners, although the charge for libel had been withdrawn at the Governor's expressed wish ;—that he was sentenced by the two Commissioners (one of whom cut his throat a few weeks afterwards on having been detected in having purloined from the Treasury a large sum of public money) to three years' banishment ;—that he appealed from this sentence to the full Court, which Court, instead of confirming or modifying the sentence as is usual in Appeals, sentenced him to seven years' banishment, and added other ignominious circumstances to the sentence, having in it found him guilty of perjury, of which he had not been accused, of which there was not a vestige of evidence on record, and which was totally false ;—that the said sentence was immediately promulgated through the Cape Gazette ;—that the Governor, in fiatting the sentence, struck out the clause relating to the perjury, because there was no record on the face of the proceedings to warrant it ;—that nevertheless, the notification in

the Gazette was never altered ;—that a further appeal to the High Court of Appeals was refused on the plea of the precise day allowed for noting such appeal having been permitted by the prisoner's Advocate to pass by, although it was not unusual to prolong the time in other instances ;—that the prisoner was closely confined in prison ;—and that Deputations were sent from the Court of Justice to see that no indulgence was granted to him ;—that at last, when his health gave way, he was permitted to reside at the Caledon Baths, where he now is, with the sentence hanging over him in case he should attempt to seek redress !

Such is the outline of this extraordinary case ; to comment upon which, to an English public would be superfluous ;—it is full, clear, and incontrovertible, and requires only to be made known. I have &c.

(Signed) C. BIRD.

— Fairbairn, Esq.

Notes, &c. on the Case of MR. BUISSINNE.

CAPE TOWN, *March 23, 1827.*

SIR,—As I conceived the best mode of proving the truth of Mr. Buissinne's case as inserted in your paper of 24th May, 1826, (to be) to refer every passage in said statement to its proof, I have consequently annexed a paper of that day (No. 1.); and the marks in that statement will refer you to the notes or remarks in this letter.

You will first recollect the difficulty we encountered in obtaining the necessary papers. The papers hereunto annexed (No. 2—11) will shew what we have done, and that as yet several papers have been refused to us. On these, as well as on all the further documents, the writings or marks with red ink * are notes which I have thought necessary, for a better elucidation and understanding of the case, to make.

I will now proceed to make the necessary notes upon that case of Mr. Buissinne.

(a) This statement says *less* than what was true ; because Mr. Bentinck only found a deficiency of 20,000 Rixdollars ; and Mr. Buissinne, when applied to by Mr. Bentinck's query,

* Printed here as foot notes with Mr. Brand's initials.—J. F.

was the first who stated the real deficiency of 40,000 Rixdollars. See said query and answer, in p. 35 of the document No. 12.

(b) This wants no proof, as no doubt is entertained of this circumstance.

(c) See Note (a).

(d) On this passage two circumstances are to be considered ; first, that some transactions had taken place between Lord Charles and Mr. Buissinne ; and, secondly, that the public sustained no loss.

As to the first, it may be observed, that what has been stated in your paper was publicly complained of by Mr. Buissinne in open court, during the trial.* When Mr. Buissinne was, on the 7th of November, 1823, put on his trial, he pleaded not guilty, and contended that he had transacted and compromised with Lord Charles, viz. that he would be freed from any prosecution, if he would only resign his situations, and surrender his estate to the sequestration of the Sequestrator. See document No. 12.

Now that such, or some compromise had taken place, appears to me to be fully proved. From the declaration of Mr. Stoll, a great friend of Lord Charles, made on oath, you will observe, that although he tries to avoid positively and clearly stating what had happened during the transaction, nevertheless, from some passages in his evidence, which I have underlined with red ink,† you will clearly perceive that no criminal prosecution was intended.‡

The following circumstances will throw more light upon the subject :

Mr. Bentinck, then auditor, some time before the 24th of October, was inquiring into the state of the revenue office, (see his evidence, page 35 of document No. 12.) and it appears that on the *24th of October*, he requested from Mr. Buissinne a written answer, as to the deficiency of 20,000 Rixdollars ; upon which Mr. Buissinne informed him that the deficiency was

* The Paper, consequently, contained nothing else, but what was said in open Court.—C. J. B.

† Italics.—J. F.

‡ Lord C. cannot here free himself with the excuse, that he has acted under the Dutch law, because the Fiscal himself denied that Lord C. had that power ; and the Fiscal certainly said so, on the principle of the Dutch law. Cf. Annexure, No. 12.—C. J. B.

40,000 Rixdollars, and that he had nothing—no cash to pay down that deficiency. (See page 35, 36, of document No. 12.)

On the 26th of October, Lord Charles was informed of the existing deficiency.*

From that period up to the 29th of October, it appears from the evidence of Mr. Stoll, (see document No. 12, page 31—33, *et seq.*) that Mr. Buissinne was, through him, Mr. Stoll, making several proposals to Lord Charles; till, upon the 29th of October, it was agreed upon that Mr. Buissinne should resign, surrender his estate to the Sequestrator, and the case should remain a deep secret; that is, no prosecution should take place.

On that very same 29th of October, Mr. Buissinne resigned by letter of that date, on which he received an answer; the next day, the 30th of October, (see Ann. No. 13,) his resignation was accepted *unconditionally*, and such resignation published in the Cape Gazette on the 1st of November, 1823.

When, on the 29th of October, Lord Charles received Mr. Buissinne's above-mentioned letter, in which he resigned, he made a memorandum for the Colonial Secretary, Colonel C. Bird, dated 29th of October; in which, however, not a word was said of any criminal prosecution; (see document No. 14,) but only an order was forwarded to the Sequestrator to take Mr. Buissinne's estate under his administration.

Mr. Buissinne, however, had himself surrendered his estate, by a letter of the same date (copy thereof, see document No. 15.)

Thus the affair remained till a late hour on Saturday, the 1st of November, when it appeared that a letter written by Buissinne to J. Collison, on the day previous, being the 30th of October, and in which some remarks were made upon Lord Charles, was forwarded to Lord Charles while at Newlands.†

* This is stated by Mr. Stoll, see Document, No. 12, p. 31, and confirmed by Lord Charles's memorandum, see Ann. No. 14; but Mr. Bentinck says, he only informed Lord Charles thereof on the 27th of October. See Ann. No. 12, p. 34, 35.—C. J. B.

† On reference to Ann. No. 16, being the Memorial or representation of the Fiscal to the Court, you will perceive that a copy of Buissinne's letter, which was called a libel, had been forwarded to Lord Charles by Mr. Bentinck at 3 o'clock in the afternoon; so that Lord C. probably received it at Newlands rather a little late; in consequence whereof, the Members of the Court were stirred up out of church the next day.—C. J. B.

On Sunday morning, the 2nd of November, Lord Charles came to town, and immediately wrote to the Fiscal a letter, (see page 35, document No. 12.) inclosing two documents which he had received from Mr. Bentinck,* and requesting him to adopt such measures as the law describes.

Now it is evident, that Lord Charles from the 24th of October, up to the 2nd of November, kept a deep silence, and never thought of putting the matter in the hands of the Fiscal, until he received the letter of Mr. B. before mentioned. When the Fiscal received the said letter from Lord Charles, on the 2nd of November, being Sunday, it appears that on that same day the Court was summoned, and met; that the Fiscal prayed for a Decree; (see Ann. No. 16;) that a Decree was *instantanter* granted; (see Ann. No. 17;) and that Mr. B., in the afternoon of that same day, was confined in his Majesty's gaol. (See Ann. No. 18.)

The haste with which all this was done, deserves some remark. Why not (have) waited till Monday? there was no haste. Mr. Buissinne knew nothing of the letter being in the hands of Lord Charles; for on the 1st of November he wrote another letter about Lord Charles; (see Ann. No. 19, page 43, line 3;) he considered himself safe under the promise that the whole affair should remain a deep secret, consequently dreamed of no prosecution; and it could not be suspected (for there were no reasons) that he would escape.

In cases of urgency, or *periculum in mora*, there is also another mode adopted.—When the Court does not sit, and the Fiscal wishes to have a Decree, the head clerk is ordered, by the presiding member, to go to every member of the Court, submit the Fiscal's prayer to them, each member then gives his opinion, the majority of votes is made up by the President, and a resolution is thus granted. But it appears that the prosecution began, with some rancour, by exciting public attention, and with a spirit of revenge against Mr. Buissinne.

This will more fully appear from the Memorial of the Fiscal, (see Ann. No. 16.) in which he requested a decree, on the charge of *felony*, *peculation*, or embezzlement, and *libel*. I have seen the annexures to the Fiscal's above mentioned memorial, and

* Probably these two documents were the letters cited by the Fiscal, Ann. No. 4, in Ann. No. 16.—C. J. B.

I do not find a single proof of *falsity* or *forgery*. It was only a suspicion of the Fiscal, (this you can easily infer, from the Fiscal's statement ; see document No. 20, page 46, *et seq.*) As to *libel*, this charge was then founded upon only *one* letter, that of the 30th of October ; for that of the 1st of November, (see Ann. No. 19, page 43, line 3) was not yet received at that period,—without the Fiscal proving how it came into his hands, or that the letter was written by Mr. Buissinne.* It was all taken for granted and proved. The only thing which His Majesty's Fiscal proved in said memorial, was the existence of a deficiency ; and as on reference to Van Leeuwen's Commentaries on the Roman Dutch Law, Book 4, chap. 33, sec. 7, you will perceive that this crime, when no falsification exists, is only punishable by a privation of their offices and services, or by a restitution of three times the value ; it may be justly asked, how is it that a decree for corporal apprehension has been granted by the court !

As to the second point, that the public sustained no loss, the following statement and documents will fully prove (it).

A few months after the surrender of the estate, the Sequestrator made a plan of distribution of the estate, in which he awarded to government (on its claim for deficiency amounting to Rixdollars 43,958. 5. 5.) the sum of Rixdollars 23,267. 4. ; so that a sum of Rixdollars 20,691. 1. 5. government had to recover from the sureties. (See Ann. No. 21.)

The Fiscal however, considering that government should be fully paid from the estate, without any recourse to the sureties, opposed himself to that plan of distribution, and memorialled the court of justice on the subject.

The court decided upon the same, by its resolution of the 16th August, 1824 ; (see Ann. No. 22 ;)—Upon which the Sequestrator altered his first plan, (Ann. No. 21) and made a second plan, hereunto annexed, (No. 23,) according to which the full claim of Government was paid.

From this it will appear, that in the statement in your paper, less was said than the truth, because, it was there stated, that the proceeds of the estate, *together with the security given*, would cover the deficiency in his accounts ; while it has now

* I have already remarked, on Ann. No. 16, that the Fiscal only exhibited a *Copy* of the so called libellous letter.—C. J. B.

been proved, that the proceeds *alone*, without the securities, covered the whole deficiency.

(c) From Ann. No. 10 and 11, it will appear that the documents at the Colonial Office were refused, so that at this moment we cannot prove the point, although conformably to the truth.

I am in hopes however of forwarding to you, with the next opportunity, some *aliunde* proofs to that effect.

(f) As to the pretended contents of said letters, conf. Ann. No. 19.

(g) As to this read here above ad (d).

(h) What happened in the court on that Sunday cannot be ascertained, but that some doubts must have existed, as to the steps to be taken, may be easily inferred from the circumstance that the memorial or representation of the Fiscal, was written in pencil, and is still lying in the same writing at the Secretary's Office. Whether that memorial was written in or out of court, —we cannot say,—nor *will* THEY say.

(k) This is fully proved by the Ann. No. 20. It may be remarked here, that *fraud* and *forgery*, were as little proved when a decree was granted, as when this declaration was made by the Fiscal.

(l) See Ann. No. 20.

(m) Except what the Fiscal himself stated in the indictment, (see Ann. No. 19.)

(n) This part of the statement is true. If you will only take what we have stated in note (d) on the authority of *Van Leeuwen*, and also consider that Mr. Buissinne's resignation was accepted unconditionally ; and that he had compromised with Lord Charles, about any prosecution ;—it must be said that there were no grounds for the prosecution of Mr. Buissinne, even for *embezzlement*.

(o) The commissioners were directed by the resolution, Ann. No. 17, and the sentence. (See Ann. No. 12.)

(p) I have annexed (No. 24) the claim which the Fiscal made before the two Commissioners ; the sentence thereon of said Commissioners is annexed, (No. 12 ;) the sentence of the Court of Justice in appeal, with a part of the proceedings held on that day I annex, (No. 25 ;) and finally the sentence, with the fiat, and His Excellency's exception, I annex, (No. 26 ;)

from which documents the correctness of the statement in your paper is fully proved. Above that, I can positively assert (and if I am wrong, it is easy for the Court to prove the contrary, from only one document) that during the whole proceeding, either before the Commissioners, or in appeal before the Court, no charge of perjury was made, nor even the word *perjury* used : neither is that word FOUND even in any of the documents filed to the Commissioners, or to the Court. “ Mr. Buissinne, the same as every other civil servant, on entering into his office, makes an oath.” This oath Mr. Buissinne never made ; and this was found out, on examining the book of oaths deposited at the Colonial Secretary’s office. But Mr. Buissinne every quarter made oath as to the correctness of his entries in his accounts. Now you must observe, that the Fiscal himself declared that all the entries were correct. (See Ann. No. 20.) And at the same time it is necessary for me to state, that it even does not appear in the records of that proceeding, that either of these oaths were made by Mr. Buissinne. (Conf. on this point, my private remarks in the document No. 27, marks A and B.)

Another circumstance is necessary to be noticed here. From *Van Leeuwen’s Comment. on the Roman Dutch Law*, book 5, chap. 25, sec. 26, you will perceive that if a claim has been partly decided and partly rejected, the defendant may propose, what is termed in law grievance, *à minimâ*. This the defendant may do, on the appeal being noted by the appellant, without noting any separate appeal.

But this is different in cases of re-hearing, another sort of appeal. An *appeal* is from one court to another ; but a re-hearing (*reauditio*) is an appeal from a part of the court to the court itself. Conf. *the Crown Trial*, sect. 4. Now, the appeal of Mr. Buissinne to the full Court of Justice, was a re-hearing, cf. Article 126 of said Crown Trial ; and is frequently, *per excellentiam*, called an appeal.

According to the Dutch laws, no such grievance *à minimâ* may be proposed in *re-hearing*, unless the defendant doth ALSO NOTE A RE-HEARING WITHIN THE TERM PRESCRIBED BY LAW. This doctrine is fully proved by *Mr. Boel, in his Commentaries super the Decisions and Observations of Lænius, Casus I*, page 3, where also the practical authors treating on this point have been cited and referred to.

Now, on referring to Article 130 of the Crown Trial, you will find that the term to note a re-hearing is *within 48 hours*. And from the document No. 12, *in fine*, you will find that Mr. Buissinne noted his re-hearing within due time ; but the Fiscal THREE days after the due time for noting such re-hearing had elapsed !! so that, according to the law laid down just now, the Fiscal could not be admitted to propose any grievance *à minimâ* ; and yet the Fiscal was admitted so to do, as you will perceive from the document No. 25, notwithstanding the Advocate for Mr. Buissinne objected thereto. The admission granted to the Fiscal was, in my humble opinion, very unjustly, for three reasons :

1. Because it is a rule in law *in dubiis benigniora accipienda*, and *in dubiis pro reo judicandum*. See l. 56, ff. *de Regulis juris*, lib. 5, tit. 17.

2. And in the second place, because it is a general rule, that in re-hearing no grievance *à minimâ* may be proposed, EXCEPT when the defendant ALSO IN DUE TIME notes a re-hearing. Now this is an exception on the general rule, and such exceptions are *stricti juris*, and admit of no extensive interpretation.

3. And in the third place, because the claims of the Fiscal, and the sentence of the Commissioners, (against which he proposed* grievance *à minimâ*) differed very little.

(q) On this conf. Van Leeuwen's comment. on the Roman Dutch Law, book 4, chap. 33, sec. 7, and our remark in note d, and n.

(r) This part of the statement is sufficiently proved, by the Ann. No. 26.

As by Ann. 8 and 9, you will perceive that copies of the proceedings in appeal have been refused, I am not able to annex the said copies.

* It is necessary here to remark, that the Court has been always very strict in refusing to admit a re-hearing, if not noted in due time, even when a defendant or condemned person has come in re-hearing. Many cases of great injury can be cited.—One will suffice—namely, when His Majesty's Fiscal seized some stores some years ago, the aggrieved party, who was condemned to pay a fine of thousands, happened to note his re-hearing only one day too late, and the court would not admit him. About this case there is a report that ministers have given orders that the Fiscal *cum suis* should refund the share which they had received from that fine. And yet the Fiscal in this instance was admitted.—C. J. B.

But I can positively assert, that Mr. Buissinne on the 1st of March, 1824, prayed the Court of Appeals, that he might yet be admitted to prosecute his appeal, owing to his never having been heard on the charge of perjury, which charge His Excellency had cancelled, but left the aggravated punishment; and on the 31st of March, 1824, that prayer was rejected.

On reference to Article 139 of the Crown Trial, you will perceive that an appeal should be noted within five days, while from the Document No. 25, you will see that an Appeal was noted within eight days, thus three days later: and to all probability, in consequence of that lapse of time, the prayer of Buissinne, to prosecute his appeal, was rejected. But in my opinion unjustly:—

1. Because, from Van Leeuwen, in his Comment. on the Roman Dutch Law, book 5, chap. 25, sect. 5, you will perceive that on a Civil Petition being made, a relief is easily granted to the person condemned.

2. And in the second place, because it was proved to the Court of Appeals, when that prayer was made, that Buissinne had been condemned for a crime, upon the defence of which he was never heard. Conf. also my private remark in document, No. 27. C.*

From this comment, Sir, you will perceive that the truth of the statement inserted in your paper, on the 24th of May, 1826, is fully proved. Should you wish some more elucidation, to some point or other, I shall lose no time, on being informed thereof, to do what shall be necessary.

As the Council did not yet sit, I shall forward the copies from that quarter, if I receive them, by the first opportunity.

I have &c.

(Signed) C. J. BRAND, Advocate.

To John Fairbairn, Esq.

* It may be finally necessary here to observe, as a striking proof of the rancour and enmity with which Buissinne was persecuted and exposed, that the sentence of the Court condemning Buissinne for perjury, was on the authority of the Court inserted in the Cape Gazette of the 29th of November, 1823, while they never also caused to be inserted the fiat of His Excellency, annulling the charge of perjury.—C. J. B.

P.S. I have forgot to mention to you, that the papers annexed to this letter, are partly authenticated copies, partly translations. Of the translations I have subjoined the authentic copies in the Dutch language,* and given them the same number as the translations. Of the translations which I have signed myself, I have given no Dutch copy, because they are my own. Instead of taking a copy of the whole proceeding, I have only taken such extracts as were necessary to prove certain facts.—C. J. B.

No. 1.

MR. BUISSINNE'S CASE.

The following case of Mr. P. S. Buissinne, late Receiver of Land Revenue at the Cape, has been transmitted to us for publication.†

This gentleman, after a series of pecuniary embarrassments, employed a portion of the public money under his trust ; and on examining the books of his office, a deficiency of 45,000 ‡ Rixdollars was discovered (*a*) ; Mr. Buissinne on entering upon his office, had given the usual security of 20,000 Rixdollars (*b*). When the examination of his books took place, he admitted the default (*c*) ; he threw himself on the Governor's mercy, and offered to surrender the whole of his estate, which, he said, he expected would, in addition to the security given, cover the full amount of the deficiency ; praying at the same time, that on so doing, he might be allowed to resign. To this the Governor assented ; Mr. Buissinne surrendered his estate to the sequestrator, and his resignation was accepted, the property was sold, and, as Mr. Buissinne had anticipated, the proceeds, together with the security given, fully covered the deficiency in his accounts ; and therefore the public having sustained no loss by him, had no further claim against him (*d*).

Mr. Buissinne having thus surrendered all he possessed in the world, had no other dependance for the support of him-

* Not here printed in Dutch.—J. F.

† This introductory sentence, as well as the case itself, was copied verbatim from the *Times* Newspaper.—J. F.

‡ The real deficiency was Rds. 43,958. 5. 5. See Ann. 23.—J. F.

self and family, but what he derived from a private arrangement between himself and the superintendant of the Government press, for whom he translated the advertisements inserted in the Gazette, and divided the profits of those transactions with him. No sooner, however, had Lord Charles Somerset become acquainted with this arrangement, than he made, for the first time, a Government appointment of it, in favour of another, and thus deprived Mr. Buissinne of his only means of support (*e*).

Mr. Buissinne driven to despair by this proceeding, wrote a letter to a friend, in which he imprudently gave full scope to his feelings, and was not sparing of remarks on Lord C. Somerset's conduct, on which he severely animadverted (*f*). This kindled his Lordship's wrath against him, to a degree that, the Sabbath notwithstanding, the President and Members of the Court of Justice were summoned out of Church in order to meet at the President's house for the purpose of taking forthwith this weighty matter into consideration (*g*); but whether they could not make it out to be sufficiently grave to admit of summary proceedings, or from whatever other cause, they re-agitated the subject of Mr. Buissinne's default, and issued a decree of apprehension against him, in consequence of which he was lodged in the common gaol, and his Majesty's fiscal was directed to prosecute him (*h*). In consequence of this, an indictment was made out, charging him with defrauding the revenue, which was untrue at the time, as has been before shown, (he had defaulted in his payments, but had not defrauded the revenue,) his books were in order, the official prosecutor admitted that there was no fraud, and this admission was entered on the proceedings (*k*), and for writing a libel against the Governor. The first part of the indictment was no longer matter for prosecution; the latter was abandoned by his Lordship himself (*l*), the letter was therefore destroyed, and consequently it is not even known whether the contents were in the eyes of the law libellous or not (*m*); therefore, in fact, there was no legitimate ground whatsoever for the prosecution of Mr. Buissinne upon the charges set forth in the indictment (*n*). But the Worshipful Court of Justice directed its Commissioners of First Instance, to proceed to try the prisoner; he was accordingly

put to the bar, tried, found guilty, and sentenced to three years' banishment from the colony, and to remain in prison until the time of his departure (o).

From this sentence Mr. Buissinne appealed to the full Court. By deciding on this appeal, the Court had only either to confirm the sentence appealed from, to mitigate, or reverse it ; but instead of this, the Court started an entire new subject, and disclosed it to the public and to the prisoner himself only at the reading of the sentence, wherein was introduced a crime not included in the indictment, for which the prisoner had consequently not been tried, and of which he had not even been suspected. This imputed crime was of no less magnitude than that of perjury ! and upon this the Court aggravated the original sentence in the following manner, as pronounced in Court, and promulgated in the Government Gazette of the 29th of November, 1823, headed thus :—

The Case of P. S. Buissinne, appellant to the full Court from a sentence given against him by two Commissioners of the Court of Justice, on the 7th instant. The Court declares the prisoner guilty of embezzling the public money, aggravated by perjury, and consequently unworthy of holding any office under His Majesty's Government ; condemns the prisoner to be banished from this colony and the territories and dependencies thereof, for seven successive years, on pain of severer punishment should he return within the same during that period ; declares that his banishment shall only take effect after the prisoner's estate shall have been liquidated by the sequestrator, and after the prisoner shall have rendered proper account of his administration as Receiver of Land Revenue, and shall have liquidated with his Majesty's Government, or shall have been relieved from so doing by Government ; directs that the prisoner shall remain in confinement until he shall have complied herewith, and thereupon be confined at Robben Island, or some other secure place, until a fit opportunity occurs for his removal ; the day of the prisoner's embarkation to be considered as the day of the prisoner's banishment, with condemnation of the prisoner in costs (p).

The place of confinement here pointed out, Robben Island, is that where all the convicts are kept ! This charge of perjury originated in what can hardly be considered otherwise than a wilful misconstruction of the following oath, quarterly taken by the Receiver of Land Revenue ; he swears : “ I hereby make oath, that the above is a just, true, and full account of the receipts in the department, to the best of my knowledge and belief.” Now all the books were perfectly correct ; the money had been received, as therein stated, but

misapplied to the amount above mentioned ; this latter, therefore, alone constituted the offence, and there was, therefore, no particle of justifiable ground for this heavy charge, much less can the inflicting a punishment for it be justified, without trying its validity, and putting the accused upon his defence (*q*). But the affair did not rest here ; Lord Charles Somerset confirmed the sentence ! Mr. Buissinne noted a further appeal ; but on account of some delay beyond the term prescribed, of which the Court of Appeals took advantage, the appeal was refused ; and Lord Charles Somerset, who, as sole Judge in the said Court, might have waived the objection, did, on the contrary, confirm the sentence of the Court of Justice, although he declared, at the same time, in writing, when signing his fiat, that the charge of perjury (which is the ground of the aggravated sentence) could not be maintained, not having been included in the indictment : thus confirming the punishment whilst he denied the ground on which it was awarded ; and Mr. Buissinne remains to this day suffering under its consequence (*r*) !

No. 2.

(Translation.]

To His Honour the Chief Justice SIR JOHN A. TRUTER, Kt.
LL.D. and the Members of the Worshipful Court of
Justice of this Government, &c. &c. &c.

The Memorial of George Greig, most respectfully sheweth,
That the Memorialist has been the Printer and Editor of a
Paper, called the "South African Commercial Advertiser."

That, by an Order of this Government, the printing and
editing of said Paper has been interdicted to him on the
grounds that Memorialist had inserted in his Paper an
erroneous and false statement of the Trial of Fiscus *v.*
Buissinne.

That Memorialist intends either personally or by proxy to
submit in England the necessary remonstrance or grievance
for his defence.

That, for such defence, he will particularly want some

documents, from the proceedings held in 1823, in re *Fiscus v. Buissinne*.

That Memorialist feeling that the Judge will not refuse to him Documents of a public proceeding, which Memorialist needs for his defence in England either before the Judge or our Legislators the British Parliament ; and remembering how the Court did some time ago grant to him an insight in and copies even of the preparatory information *v. Burnett*, in case of defamatory Libel, Memorialist begs most respectfully to pray, that it may please this Worshipful Court to grant to Memorialist in the presence of one of the head Clerks an insight in, and copies of such papers as Memorialist may want from the proceedings of *Fiscus v. Buissinne* for a charge of peculation, and upon which on the 20th November, 1823, sentence in rehearing has been given.

Memorialist also praying on account of the departure of Memorialist which is on hand, that an extract resolution may be granted *sine resumptione*.

And Memorialist, &c. &c. &c.

Exhibitum, 15th March, 1827. for Memorialist,

(Signed) C. J. BRAND, Advocate.

No. 3.

[Translation.]

Extract Resolution taken by His Honour the Chief Justice Sir JOHN A. TRUTER, Knt. LL.D. and the Members of the Worshipful Court of Justice of this Government, on Thursday the 15th March, 1827.

Read the memorial of George Greig, praying for the reasons and motives as more fully set forth in said memorial, to grant to the Memorialist, in presence of one of the head clerks, an insight in, and copies of, such documents as the Memorialist shall want from the proceeding in re *Fiscus v. Buissinne* for peculation, and on which proceeding on the 28th November, 1823, a sentence was passed by this Court ; and further, that an extract may be granted to Memorialist *sine resumptione*.

Said Memorial being of the following purport,

Fiat insertio.

Resolved, after due deliberation, to accede to the prayer of Memorialist as is done by these presents, and an extract of these presents *sine resumptione* shall be granted to Memorialist for his information.

A true copy. (Signed) D. F. BERRANGE,
Secretary.

A true translation. (Signed) J. SUASSO DE LIMA,
Examined, Sworn Translator.

R.

No. 4.

To His Honour SIR JOHN A. TRUTER, Knt., LL.D., President,
and the Members of the Worshipful the Court of Justice
of this Government, &c.

The Memorial of the advocate C. J. Brand, acting for G. Greig, respectfully sheweth,

That it has pleased this worshipful court, by its resolution of the 15th last, *sine resumptione* to grant to Memorialist an insight in, and copies of the papers relative to the Trial of P. S. Buissinne for the charge of speculation and perjury ; in consequence whereof, Memorialist has obtained some copies.

That Memorialist however experienced some difficulty at the office of this Worshipful Court, to obtain copies of two documents which are of the utmost importance to Memorialist's client, either before the Parliament or other competent Judge in England.

These documents are first, a copy of the Memorial of His Majesty's Fiscal, praying for a provision of Justice against the said Buissinne ; upon which, on Sunday, the 2nd November, 1823, a decree for a corporal apprehension was granted.

That memorial your Memorialist has found in the resolution as a "*fiat insertio*," and Memorialist obtained only at the Secretary's Office a part of said Resolution without the "*insertio*," while Memorialist solemnly declares that the said *insertio*, together with the minutes held on that day, are of the utmost importance to him.

The other documents of which Memorialist also requested copies, but which were refused to him, are the two letters upon which the Fiscal has founded his charge for libel.—Both those letters have been inserted by the Fiscal in the act of indictment, and Memorialist could only obtain a copy of the act of indictment without the *insertio*.

Memorialist takes further the liberty to submit to this Worshipful Court, the great interest which Memorialist's client has in these documents, and the great haste with which he wants the same, as his departure to England is fixed on to-morrow, for no other purpose but to submit his defence in England.

Wherefore, Memorialist respectfully prays, that it may please this Worshipful Court, to order, that copies of the before-mentioned documents shall be granted to Memorialist.—And that it may further please this Worshipful Court, to grant to Memorialist, an extract *sine resumptione*, in order in case of refusal, (as Memorialist has experienced at the Secretary's office) to prove to the competent judge in England, the difficulty he experiences here in obtaining the papers necessary for his defence.

And Memorialist as in duty bound shall ever pray, &c. &c.

Filed the 19th of March, 1827. (Signed) C. J. BRAND,
Advocate.

A true translation.

Examined, (Signed) C. J. BRAND,
R. Advocate.

No. 5.

[Translation.]

Extract Resolution taken by His Honour the Chief Justice
SIR JOHN A. TRUTER, Knt. LL.D., and the Members
of the Worshipful Court of Justice of this Government,
on Monday the 19th of March, 1827.

Read the Memorial of the Advocate C. J. Brand, acting for George Greig, praying for the reasons and motives as stated more fully in said memorial, that copies may be granted to him of the following documents, as

1st. Of the Memorial of His Majesty's Fiscal, upon which

on the 2nd of November, 1823, a decree for corporal apprehension was granted against P. S. Buissinne.

2nd. Of two letters, upon which the Fiscal founded his indictment for libel, and that owing to the departure of the principal Memorialist, which was on hand, an extract might be granted to him, *sine resumptione*.

The said Memorial being of the following purport.

Fiat insertio.

Resolved, after the consideration of His Majesty's Fiscal had been heard upon this prayer, and after due deliberation, to decline and refuse the prayer of Memorialist, as is done by these presents, on the consideration that both the letters not having constituted an object of trial, nor having been exhibited during the same, consequently did not belong to the documents belonging to the public proceedings, *v.* P. S. Buissinne, just as little as the Memorial of His Majesty's Fiscal, upon which the decree for personal apprehension had been granted.

An extract of these presents shall be granted to Memorialist *sine resumptione*, for his information.

A true copy. (Signed) D. F. BERRANGE,
Secretary.

A true translation. (Signed) J. SUASSO DE LIMA,
Examined, Sworn Translator.

R.

No. 6.

[Translation.]

To His Honour SIR JOHN A. TRUTER, Knt. LL.D., and the
Members of the Worshipful the Court of Justice of this
Government, &c. &c. &c.

The Memorial of Advocate Mr. C. J. Brand, acting for
George Greig, most respectfully sheweth,

That Memorialist has presented a Memorial to this Worshipful Court, praying to be furnished with a copy of the memorial in re Fiscus *v.* Buissinne, filed by his Majesty's Fiscal to this Worshipful Court, on the 2nd of November 1823, together with copies of two letters, called in the act of indictment defamatory writings, on which Memorial this Worshipful

Court was pleased by a resolution dated the 17th of March last, to refuse the prayer of Memorialist, on the grounds (as stated in the above mentioned resolution) that the Memorial of His Majesty's Fiscal did not belong to the documents in the public proceeding in re Fiscus v. Buissinne.

Memorialist most humbly begs the Judges' kind pardon, for his again intruding on their precious time with the present Memorial, and also begs to impress on the mind of this Worshipful Court, that nothing but a religious sense of his duty, in taking at heart the interest of his client, has driven him thereto.

Memorialist has shewn to this Worshipful Court, by a former memorial, how his client's paper was stopped. This was done on a charge that he the said Greig, had inserted in his paper, an erroneous, false, and calumnious statement of the case of Fiscus v. Buissinne.

This charge has been laid against him in England.

There also he will go and prove the unjustness of the same. Memorialist's client stands branded as a calumniator, and false reporter, whereby he is going to lose his moral existence in society; he therefore wishes to defend himself, to prove his innocence, and to vindicate his honour, good name, and credit. He is on the eve, owing to the said charge, to be ruined in his fortune, he therefore wishes to defend himself, to vindicate that fortune, and to be able to do all this, he must prove the truth of the facts of the report as inserted in his paper. A Judge can have no duty more agreeable than that of seeing the honour, character, and property, of every individual, vindicated and maintained, and the conviction that this Worshipful Court is actuated by the same feelings, to assist every accused, or as the Roman Law learns* to be the advocate for the accused, this conviction induced the Memorialist again to address himself with all respect to this Worshipful Court.

When some years ago the Advocate Mr. A. Faure, petitioned this Worshipful Court to be furnished with the preparatory informations in the proceeding v. Breda, this Worshipful Court declared before deciding on that prayer, that the said Advocate should shew his reasons why he wanted the same.

* Instructs.—J. F.

Breda himself, afterwards stating to the Court his reasons, has received copies thereof.

Memorialist's Client, G. Greig, being attacked in his honour and reputation by the Commissioners of Inquiry, in their Report on the affairs of Mr. Bishop Burnett, has made application to this Worshipful Court to have an insight and copies of the preparatory informations concerning the posting up of a certain placard, this Worshipful Court was pleased to accede to said application.

The very same circumstances, Worshipful Judges, now again exist. The preparatory informations, for which Advocate Faure and Greig made an application, were also not exhibited in any public proceedings. They were informations on the grounds whereof the prosecutor for the Crown made a Declaration, and on which no charge or indictment whatsoever followed. Yes, on which no exposure of a man's credit, honour, and good name, or injury to a man's prospect in fortune, followed: two circumstances which, however, in the present dispute actually take place, and which consideration the Memorialist begs may influence the mind of your Worships.

The Memorialist therefore yet makes use of the present opportunity (whereas the Ship with which Mr. Fairbairn intends to take the Papers of Memorialist's Client to England, will remain until Saturday) to pray this Worshipful Court with all due respect, that it may please your Worships, in consideration of the further circumstances laid down in this Memorial, and the exceeding great interest for Memorialist's Client, to authorize the Secretary of this Worshipful Court to deliver to the Memorialist the requested Copies.

Memorialist requests on this prayer, the *benignum et laudabile judicis officium*, and also an Extract without resumption.

And Memorialist as in duty bound shall ever pray, &c.
Filed in Court, 22nd March, 1827.

(Signed) C. J. BRAND,
Advocate.

A true translation,

Examined,
R.

(Signed) C. J. BRAND,
Advocate.

No. 7.

[Translation.]

Extract Resolution taken by His Honour the Chief Justice
SIR JOHN A. TRUTER, Knt. LL.D. and the Members of
the Worshipful Court of Justice to the Government, on
Thursday the 22nd March, 1827.

Read the Memorial of Advocate C. J. Brand, acting for
George Greig, praying for the reasons and motives as fully
set forth in said Memorial—that on consideration of the
circumstances further adduced in the present Memorial, and
the very great interest of his Client, the Secretary may as yet
be authorized to grant to him Copies as well of the Memorial
of His Majesty's Fiscal in re v. Buissinne, as of both the
letters mentioned in the Act of Indictment called libellous
writings ; and, further, that an extract *sine resumptione* may
be granted to him of such Resolution as the Court might come
to on the present Prayer.

Said Memorial being of the following contents.

Fiat insertio.

Resolved, after His Majesty's Fiscal had been heard in
Court upon this second prayer of Memorialist, and due
deliberation, to adhere, as is done by these presents, with
regard to the two Letters, to the Resolution of this Court
dated 17th last, on the grounds as stated in said Resolution ;
and, further, with regard to the requested Copy of Memorial
to declare, as is also done by these presents, that *neither the
grounds and motives* brought forward by Memorialist as a
further step for his prayer, nor any other, can in any way
tend to cause the Court to yield the general principle, “ not
to grant copies of any Memorial or Representation of His
Majesty's Fiscal submitted to the Court, and which did not
serve as a proof in any criminal proceeding.”

In which principle the Court doth most expressly persist,
but that the Court, as on examining the Memorial or Repre-
sentation, it has appeared that the *reason ceases** why no

* The Court just before stated that there are no reasons why they should
alter their former Resolution, that is, why they should grant the requested
Copy, and now they say that the reason why they should *not* grant it ceases!!
What a twist only to find a reason for having done an unjust act—that of
refusing the requested Copy.—C. J. B.

Copy of that Memorial should be granted ; and as His Majesty's Fiscal also, on the very same ground, has declared in Court that in this special case, without any consequence for the future, he would not oppose himself against the prayer of the Memorialist, doth resolve to grant the prayer of Memorialist, and consequently to grant him the requested Copy of the Memorial or Representation, as is done by these presents. And an extract of these presents *sine resumptione* shall be granted to Memorialist for his information.

A true Copy,

(Signed) D. F. BERRANGE,
Secretary.

A true Translation,

(Signed) J. SUASSO DE LIMA,
Sworn Translator.
Examined,
R.

No. 8.

To the Court of Appeals for Civil Cases at the Cape of Good Hope. To His Honour MAJOR GENERAL RICHARD BOURKE, C.B., Lieutenant Governor at the Cape of Good Hope, *ex parte* George Greig,

The Memorial of George Greig humbly sheweth,

That the Newspaper called the South African Commercial Advertiser, of which Memorialist was the Printer, Editor, and Proprietor, has been stopped by an Order from the Home Government, owing to the insertion in his paper, dated 24th May, 1826, of the Case of Mr. Buissinne.

That Memorialist intending to leave by proxy this Table Bay to-morrow for England, in order to defend himself upon the said paragraph before the competent Judges, or to submit the same to the Parliament of Great Britain, is particularly in want of a copy of the proceedings held before this Right Honourable Court, in re Fiscus v. Buissinne.

Your Memorialist, therefore, submitting to this Right Honourable Court that those Papers are most necessary and

essential for his defence of his right, character, and property, most humbly prays it may please this Honourable Court to authorize the Secretary of this Right Honourable Court to grant to Memorialist such copies from the proceedings held in appeal in re *Fiscus v. Buissinne*, on payment of the necessary fees, as Memorialist or his Advocate shall find to be necessary and wanted.

And may it further please this Right Honourable Court to grant such authority as speedy as possible, owing to Memorialist's intention to leave this place either to-morrow or the next day at farthest.

And Memorialist as in duty bound shall every pray, &c.

For Memorialist,

(Signed) C. J. BRAND, Advocate.

Filed 19th March, 1827.

A true copy,

Examined, R. (Signed) C. J. BRAND, Advocate.

No. 9.

In the Court of Appeals for Civil Cases at the Cape of Good Hope, on the twenty-first day of March, in the year of our Lord 1827, *ex parte* George Greig.

The Court having read and duly considered the Memorial of George Greig, praying "to authorize the Secretary of this Court to grant to Memorialist such copies from the proceedings held in appeal in re *Fiscus v. Buissinne*, as Memorialist or his Advocate shall find to be necessary and wanted," doth reject the prayer of the Memorial.

(Signed) J. P. SERRURIER, Secretary.

No. 10.

To His Honour RICHARD BOURKE, C.B., Lieutenant-Governor
at the Cape of Good Hope.

May it please your Honour, the Memorial of the undersigned Advocate most respectfully sheweth,

That Mr. George Greig, Proprietor, Printer, and Publisher, of the Cape Newspaper called "The South African Commercial Advertiser," has, by an order from the Earl Bathurst (which has been conveyed to him by the Secretary to Government, Sir R. Plasket), been stopped, owing to the insertion in the Paper of the 24th May, 1826, of a statement entitled, "The Case of Mr. Buissinne."

That the said Mr. G. Greig instantly came to the resolution, for the preservation of his rights, character, and property, to lay his defence by proxy either before the competent Judge in England, or to submit the same to the Parliament of Great Britain.

That, in consequence of such resolution, Mr. Fairbairn has taken upon him the defence of the case in England, and is to leave this place for England to-morrow or after to-morrow, at farthest ; while the undersigned, in his capacity as Advocate pleading before the Bar of the Court of Justice and the Right Honourable Court of Appeals, has been detained to prepare such defence.

That the undersigned finding some papers from the Colonial Office to be most essential, and of the utmost necessity for the defence of his case, has taken the liberty to address himself by this Memorial to your Honour. Those documents are, first, a copy of Mr. Buissinne's letter dated 29th October, 1823, resigning his situations he held under Government at that time, and a copy of a letter to the Sequestrator, conformable to a Memorandum of Lord Charles H. Somerset, dated Colonial Office, October 29th, 1823 ; and, secondly, a copy of the appointment of R. Rogers, Esq. as Translator for the Printing Office ; this being a situation which Mr. Buissinne up to his resignation has held. May it therefore please your Honour to order said copies to be granted to your Memorialist, on payment of the necessary fees attending thereon ; whilst

your Memorialist begs also to crave your Honour's speedy reply, owing to the speedy departure of Mr. Fairbairn. Your Memorialist further respectfully begs your Honour's pardon for thus intruding upon your Honour's precious time, which your Memorialist would have avoided, but for the great interest which he considers he must feel for the defence of the rights, character, and property of his client.

And Memorialist as in duty bound shall ever pray, &c.

(Signed) C. J. BRAND,
Advocate.

A true copy.

(Signed) C. J. BRAND,
Advocate.

Cape Town,
March 19th, 1827.

Examined,
R.

No. 11.

Reply to the Memorial of C. Brand, Advocate for and on behalf of George Greig, Printer and Publisher of the late South African Commercial Advertiser, praying to be furnished from the Colonial Office with copies of a letter from Mr. Buissinne, dated October 29, 1823 ; of a letter to the Sequestrator, dated Colonial Office, October 29, 1823 ; and also a copy of the appointment of R. Rogers, Esq. as Translator for the Printing Office.

Memorialist is informed that the Lieutenant-Governor cannot accede to the prayer of the memorial.*

Colonial Office, March 21st, 1823.

By Command of His Honour the Lieutenant-Governor,

(Signed) RICHARD PLASKET,
Secretary to Government.

* N.B. This at all events proves that those documents do exist.—C. J. B.

No. 12.

[Translation.]

Extract from the Records, held before Messrs. J. H. NEETHLING, LL.D., and F. R. BRESLER, commissioned Members, from the Worshipful Court of Justice of this Government in the criminal Suit of HIS MAJESTY'S FISCAL, R. O. Prosecutor, *versus* PETRUS STEPHANUS BUISSINNE, Prisoner and Defendant, on Friday the 7th of November, 1823. The R. O. Prosecutor and the Defendant, &c. &c.

Which documents being exhibited, the Secretary publicly read to the Prisoner the Act of Indictment, after which the presiding Member communicated to the Prisoner that with reference to the charge contained in the Act of Indictment, the questions exhibited in Court will be proposed to him with such further questions as the Judge himself may think proper to propose to the Prisoner.

Upon this the Prisoner replied :

I deny being guilty of the crime of which I am accused in the Act of Indictment, but supposing that I were guilty of it, then the Action does not exist, because I have transacted and compromised with his Excellency the Governor ; the Case, therefore, is terminated, and this will appear from the investigation. I do, however, not intend to say any thing with an intention of injuring his Excellency, far be it from me ; his Excellency is a man, and circumstances might escape his memory, even as that of others, and the easier because his labours are many, yea, great many, and I am confident that when he is put in mind of all the circumstances which have taken place, he would immediately order this action to be withdrawn ; but I cannot wait for it, and I must, therefore, begin with denying, and to propose the exception of transaction and composition, and consequently of *Litis finitæ*, praying that Mr. Stoll may be examined.

In consequence thereof, was called *Joachimus Wilhelmus Stoll*, old 37 years, born in this Colony, Landdrost of the Cape District, who, after having made oath, answered the questions proposed to him by the Prisoner as follows :

I. At the time when the Auditor of Accounts supposed to

have discovered a deficiency in my accounts, did I not beg of you to get the Case redressed, and what was done in it ?

*Saturday, eight days ago,** I received a letter from Mr. Buissinne, in which he informed me that the Auditor of Accounts had discovered a deficiency in his accounts, and begged of me to make such a settlement in the Case as was possible ; Mr. Bentinck, I believe, had received a letter of almost a similar nature, and, I think, in that letter it was mentioned that he had written to me ; Mr. Bentinck, in consequence thereof, called upon me, and after I had spoken to Mr. Bentinck, I also spoke to Mr. Buissinne, who told me that he was unable to bring up the deficiency, but that he was willing to let his whole salary remain in order to make up the deficiency. On *the Monday†* I was informed by Mr. Bentinck, that he had informed His Excellency the Governor of the deficiency and of the proposal, and that His Excellency had not agreed to it, and expected that the money should be paid immediately, and that as yet he would take no notice of the Case in the hopes that the friends of Mr. Buissinne would settle the Case. After having heard this from Mr. Bentinck, I informed Mr. Buissinne of it, and told him in substance what Mr. Bentinck had answered, and we parted from each other under the impression that Mr. Buissinne should further consider about the Case, and see what other proposals he could make. The following day, I think Mr. Buissinne told me, that he could make no other proposals than to place his estate under the management of trustees, and all that remained after the special mortgages he would pay in the month of December, in part payment of his debt, which we calculated would make an amount of about ten thousand Rixdollars, and then to begin with the first of January next eight thousand Rixdollars annually. I communicated this second proposal, first to Mr. Bentinck, who told me that it would be better if I spoke to the Governor himself about it, and afterwards I spoke to the Governor about it, which was, as I believe, on the Wednesday. I then told the Governor that Mr. Buissinne was willing to pay, in the month of

* That is on the 24th of October, 1823, of the date of query, page 35.—C. J. B.

† This was the 26th October, 1823.—C. J. B.

December next, ten thousand Rixdollars, and that he would immediately sell every thing, and further, eight thousand Rixdollars annually till the whole debt should be settled. The Governor then answered me, that Mr. Buissinne should make this proposal to his friends, that he, in his situation, could enter into no agreement with Mr. Buissinne, that he should watch the interests of Government, and therefore expected that the money should be paid immediately, *when his Excellency, to save the fame of Mr. Buissinne, should consider the case as a deep secret* ; but, although the money was paid by him he could not allow him to continue in his situations. On the very same day I called upon Mr. Buissinne, and informed him, in substance, of the Governor's answer. Mr. Buissinne then repeated his utter impossibility to pay, and said that nothing now remained for him but to resign, and to place his estate under sequestration, this I told the Governor, and afterwards I handed over to His Excellency the resignation of Mr. Buissinne, in writing, under which his Excellency, wrote in pencil, "accepted," and signed it ; the Governor then requested me to deliver this resignation with his "accepted" at the bottom to the Colonial Secretary, which I did.

II. Did you consider the Case thereby settled or not ?

It was my opinion, that in consequence of the resignation of Mr. Buissinne, the Case was terminated.

When the resignation was delivered, did His Excellency say any thing about a prosecution ?

He did not.

The R. O. Prosecutor asks,

Was there any thing said or done by His Excellency, from which it may be reasonably concluded that it was His Excellency's intention to stifle the Criminal Prosecution, in case the Prisoner resigned even then, when the arrears to the Government were not settled by the Prisoner ? If so, to describe it.

There was never a word mentioned about a Criminal Prosecution, during all the conversations I had with His Excellency about this Case : the Governor intended to write a Letter to the

Sequestrator, informing him of the circumstances, with an Order to take the Estate of Mr. Buissinne under Sequestration.

The R. O. Prosecutor, for answer upon the Exception, says,

That no transaction (or compromise) about Criminal Cases, can take place between the Governor and the Inhabitants of the Colony ; that the right of the Governor to grant remission and pardon is quite different from the idea of transaction, which is a private agreement between the parties about a litigious case ; that even the Officers of Justice do not possess the power, although they are parties to the Criminal Suits, to make any transactions or compositions about them with those who are under accusation ; that with regard to the right of granting pardon or remission, His Excellency had not committed a single act, from which it can be concluded that he had exercised that right with regard to the Prisoner ; that the acceptance of the Prisoner's resignation of his situations can have no further extension than the act of the Prisoner had, who did not pray therein, that by the acceptance of his resignation he might be freed from the punishment of any crime committed by him, but only mentioned, as the reason of his resignation, sickness, and concludes therefore that the proposed Exception may be rejected. C. E.

The Prisoner exhibits a Copy of a Letter of the dismissal of his situations, being of the following purport,*

Fiat insertio,

and says : This Resignation having been accepted unconditionally on the 30th of October, the Fiscal was not ordered to prosecute me till the 2nd of November following. If any prosecution had been intended, and if no transaction had taken place about this Case, would he not immediately have been ordered to prosecute me ? But as this Case remained silent for three days, I, as well as Mr. Stoll, formed an idea that the Case was thereby wholly terminated, especially as the Case stood just the same on the 29th of October as it was on the 2nd of November, and persist in my prayer aforesaid.

The R. O. Prosecutor in reply says, he has only to observe, that, on the part of the Governor, *not a single step was taken*

* This Letter is annexed, No. 13.—C. J. B.

to check the prosecution, as His Excellency has told him,* R. O. Prosecutor himself; but only such steps as to secure the Country against the loss of such an enormous sum; and in order to acquaint the Prisoner with the exact words of the Governor, the R. O. Prosecutor exhibits a Note of His Excellency, dated October 29th, 1823, of the following purport,

Fiat insertio,

and persists for reply.

The Commissioned Members reject the proposed Exceptions of transaction and acquiescement!!!

Accordingly, &c. &c.

1st. Walter Bentinck, of competent age, born in Holland, Auditor General, who having made Oath, stated:

In my capacity as Auditor General, having discovered *some irregularities*† in the office of Land Revenue, I considered it my duty to find out the cause of it. Applying to the Receiver of the Land Revenue, I was informed by him that the Land-drosts of the far distant Districts did not always send the money with their Lists, which was found to have taken place occasionally; but not considering this as a sufficient explanation, I considered it my duty to take further measures, which at last induced me to transmit an Official Query to the Receiver of Land Revenue; which Query, with the Answer thereon, is now laying before Commissioned Members. This Answer made it a painful duty to me to inform His Excellency of it on the 27th of October.

The Prisoner asks, &c.

After which the following documents (being the preliminary investigations) were publicly read to the Prisoner.

1st. Letter of His Excellency to the R. O. Prosecutor, dated 2nd of November, as follows:

November 2, 1823.

SIR,—I have the honour to transmit to you two Documents which have been placed in my hands by the Auditor (Walter Bentinck, Esq.) upon whom

* N.B. How could His Excellency know that such defence would be set up, if he did not know himself that it *was true*?—C. J. B.

† What irregularities?—C. J. B.

I beg you will call for further information ; and have to acquaint * that you will adopt the measures prescribed by the law in cases of this nature.

I have the honour to be, Sir,

Your most obedient servant,

(Signed) CHARLES HENRY SOMERSET.

To D. Denyssen, Esq.

2nd. Official Query proposed by the Auditor to the Receiver, dated October 24, as follows :

AUDIT OFFICE, October 24, 1823.

Query.

On examining the amount of Cash in the Bank of the several Revenue Offices on this day, I perceive the balance of the Land Revenue to amount to Rixdollars 307. 3. 5. whilst a sum of Rixdollars 22,510. 1. 1. should be deposited there in addition to the above sum, to make up the sum total, viz. Rixdollars 22,817. 5. Why are the existing Government Regulations not complied with ?

(Signed) WALTER BENTINCK.

Answer.

In reply to this Query, I am under the necessity of stating, that when I held my former situation of Landdrost, the expences of that situation so far exceeded the allowance made by Government, that I of necessity fell greatly into arrear. This arrear I have since been gradually bringing up ; but the new method of auditing the accounts has closed this channel, heretofore open : and I have only now to say, that I *have nothing to offer*† to make up the deficit existing, which amounts to very near 40,000 Rixdollars, but the surrender of my Salaries, beginning with the first of January next, (for till that time they are mortgaged,) until the whole shall be effected.

Should His Excellency the Governor think that this plan is admissible, security being already in its (his) hands for half the amount, I shall be able to recover from the pain that the aforesaid unfortunate circumstance has long given me, and I think I may safely appeal to His Excellency the Governor, who has witnessed what I have above expressed, and is also aware of the industry I have manifested in public business and private life, and in consequence has always been most kind to me, and who will always be happy to save an old servant who has been brought into difficulties from the extreme economy of the Government.

(Signed) P. S. BUISSINNE.

3rd. List of Collected Moneys, &c.

Commissioners declare the investigation of this Case closed,

* Query, "request."—J. F.

† He meant, "I have no sufficient Cash at present."—C. J. B.

directing the Fiscal forthwith to make his claim, and to conclude as he might think proper, conformably to the laws of the Colony.

The R. O. Prosecutor, says, &c.

Commissioners having seen and examined the investigation held in this Case, having heard the claim of the Fiscal, and attended to every thing to be attended to, and could in anywise move the Court doing justice in the name and on behalf of His Great Britannic Majesty, declare the prisoner guilty of the crime of embezzlement of public money, condemn him, therefore, to be banished from this colony and the dependencies thereof for the space of the three first and successive years, on pain of severer punishment should he return within the same during that period, direct that the prisoner shall be kept in close confinement until a fit opportunity occurs for his removal, with condemnation of the prisoner in the costs, with reserve, however, and without prejudice, and save the right of all such civil actions of this Government, as well as of all other creditors of the estate of the prisoner placed under sequestration, which may be brought forward against the prisoner, and rejecting all further claim of the prosecutor.

Passed at the Cape of Good Hope, *die et anno ut supra*.

(Signed) J. H. NEETHLING,
F. R. BRESLER.

In my presence,

(Signed) J. T. JURGENS.

After the pronunciation of the above sentence, the prisoner begged, as he wished to settle his affairs, and as it was necessary that he should have access to his books and papers, which it was impossible to be conveyed to the prison, that he might be released upon bail, or any sort of security.

The Fiscal, who was still present *in Judicio*, having been heard upon this request, states that there are more or less grounds for it, in order to settle his estate, placed under sequestration, and submits himself.

Which prayer Commissioners referred to the full Court.

Quod Attestor.

(Signed) J. T. JURGENS.

On this day, the 8th of November, 1823, the Prisoner declared to enter a reaudition of the above sentence to the full Court.

Quod Attestor.

(Signed) J. T. JURGENS.

On this 11th of November, 1823, the Fiscal declared, as he has been informed, that the Prisoner has noted a rehearing,—that he also notes a rehearing of the above sentence, in order to propose grievance *à minima*.

Quod attestor.

(Signed) J. T. JURGENS.

No. 13.

[Copy.]

COLONIAL OFFICE, Oct. 30, 1823.

SIR,—I am directed by His Excellency the Governor, to acknowledge his receipt of your letter of yesterday's date, tendering your resignation of the situations you hold under this Government, and I am to acquaint you that His Excellency has been pleased to accept thereof. I have &c.

(Signed) C. BIRD.

P. S. Buissinne, Esq.

No. 14.

[Copy.]

COLONIAL OFFICE, Oct. 29,* 1823.

Lord Charles Somerset concludes that Colonel Bird is not ignorant of the circumstances that have occurred in the Land Revenue Offices. Lord Charles received the official communication of it *on Monday* last,† and he has refrained from acting upon it for forty-eight hours, in the hope that Mr. Buissinne's friends might find the means to save his fame. Mr. Buissinne has now tendered his resignation of his offices, and Lord Charles conceives that a letter to the purport of the enclosed pencilled draft should go immediately to the Sequestrator. If there is any other mode of proceeding more delicate or considerate towards Mr. Buissinne and his friends, which would equally secure the public, Lord Charles will most willingly adopt it, but it is Lord Charles' first duty

* This was Thursday.—C. J. B.

† This was the 26th of October.—C. J. B.

to secure the public interests by every means within his power.

A true Copy from the proceedings in the Case of
H. M. Fiscal, *v.* P. S. Buissinne, being a document
filed by H. M. Fiscal.

(Signed) J. T. JURGENS.

[Copy.]

P. S. Buissinne, Esq. having reported to the Auditor that it is not in his power to comply with a demand that has been made upon him to make good certain sums amounting together to nearly 40,000 Rixdollars, which appear as deficient in the account in the Land Revenue Office, I am directed by His Excellency the Governor to direct you forthwith to take possession of Mr. Buissinne's estate and effects, in order to secure the above debt due by him to Government.*

No. 15.

[Translation.]

CAPE TOWN, Oct. 29, 1823.

SIR,—The circumstances of my estate being such I cannot reasonably expect that the same will be sufficient to satisfy the many debts due by the same, I am obliged to request to take the same under sequestration for liquidation.

I have &c.

(Signed) P. S. BUISSINNE.†

R. J. van der Riet, Esq.,
Sequestrator.

No. 16.

[Translation.]

The Fiscal produces,

1. A letter of His Excellency the Governor.
2. An official memorandum of the Auditor of accounts of P. S. Buissinne, with his answer given thereon.

* This is a Copy of the pencilled draft alluded to by Lord C.—J. F.

† N.B. This letter, originally written in the Dutch language, was in the handwriting of Mr. Stoll, and only signed by Mr. Buissinne.—C. J. B.

3. A copy of an official memorandum of His Excellency the Governor to the Colonial Secretary, dated 29th October, 1823.

4. A letter of the Auditor of accounts to His Excellency, addressed Saturday, 3 o'clock, P.M. with *a copy* * of a letter annexed thereto of P. S. Buissinne to John Collison, dated Liesbeek's Cottage, 30th September,† 1823.

And as from these documents, as much as is required for obtaining preparatory information, appears that P. S. Buissinne is subject to the charge of fraudulently embezzling monies received by him in his public capacity as Receiver of Land Revenue, and appropriating public monies for his own private use ; which crimes are known in law, the first by the name of falsity, and the latter by peculation ; while in the third place, as an aggravation to those crimes, is added the writing and publishing of a calumnious libel, tending to place His Excellency the Governor in the light as having compelled him to resign of his public situation, in order to assist his favourites and further as persecuting him, only to satisfy his personal enmity against the Colonial Secretary, I have consequently considered it my duty to bring this officially to the knowledge of this Worshipful Court, and to pray that such provision of justice, either of civil custody or otherwise, may be granted to me, as under the present circumstances (as I have not yet been able to obtain the preparatory information) shall be deemed meet.

A true copy from the original, exhibited by His Majesty's Fiscal, on Sunday *the 3rd* of November,‡ 1823, *v.* P. S. Buissinne.

(Signed) J. T. JURGENS.

A true translation. (Signed) J. SUASSO DE LIMA,
Sworn Translator.

* How could the Court, by a *copy*, ascertain whether it was written by Buissinne ?—C. J. B.

† This is an error ; it must be 30th October, 1823.—C. J. B.

‡ This is an error ; must be 2nd of November.—C. J. B.

No. 17.

[Translation.]

Extract Resolution taken by His Honour the Chief Justice
SIR JOHN TBUTER, LL.D. and Worshipful the Court of
Justice of this Government,* on Sunday, the 2nd November,
1827.

Read a Memorial of His Majesty's Fiscal, D. Denyssen,
Esq. LL.D., with an annexure of five documents, praying,
on the grounds therein mentioned, such a provision of justice
as the Court shall deem meet, against P. S. Buissinne, for the
commission of falsity and peculatus, aggravated by the
writing and publishing of a calumnious libel against His
Excellency the Governor and Commander-in-Chief. The
Memorial being as follows :

Fiat Insertio.

Resolved, after examination of the documents exhibited,
and due deliberation, to grant by these presents a decree of
corporal apprehension of the person of P. S. Buissinne, for a
charge of falsity and peculatus, aggravated by the writing
and publishing of a calumnious libel against His Excellency
the Governor, relative to the both before mentioned charges,
referring His Majesty's Fiscal, with regard to the enquiry and
prosecution of this case, to the Court of two Commissioned
Members.

And an extract of these presents, with a return of the
original documents which were exhibited, shall be granted to
the R. O. Prosecutor.

A true copy.	(Signed)	J. T. JURGENS, First head Clerk.
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A true translation.	(Signed)	J SUASSO DE LIMA, Sworn Translator.
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* Observe : when this resolution was taken the whole Court was present
except three members, Messrs. Bentinck, P. B. Borchers, and P. J. Truter.
This appears from the minutes, but of which I could obtain no copy. But
Sir John Truter was present.--C. J. B.

No. 18.

I the undersigned do hereby certify that Mr. P. S. Buissinne was brought to prison on the 2nd November, 1823, and sent to Town Somerset Hospital as sick on the 16th January, 1824, and from there released on the 16th January, 1825, and sent to the district of Beaufort.

Cape Town Prison, 24th March, 1827.

(Signed) W. MILLS, Sheriff.

No. 19.

[Translation.]

Act of Indictment in the criminal prosecution of His Majesty's Fiscal prosecutor for the Crown, *v.* P. S. Buissinne, prisoner in H. M. Gaol in this Town.

Be it known by these presents,

That P. S. Buissinne formerly having been Receiver of Inland Revenue, now prisoner in H. M. gaol, has become subject to the Charge with having, in said official Capacity, *malu fide* detained and converted to his own use, public money received by him, and especially with *mala fide** detaining and converting to his own use such sums, as are contained in a statement of the Auditor of accounts made to His Majesty's Fiscal of the following tenor.

[*Fiat insertio*, No. 1,†

Which charge is considerably aggravated by the writing and dispatching of two defamatory letters or writings, addressed by him, the prisoner, to John Collison, and dated

* Mr. Buissinne intended to return the money he had taken away, where then is the *mala fide*?—C. J. B.

† After the Fiscal had withdrawn the charge of Libel, (see No. 20) the whole part of this indictment was taken out as it now stands. On reference to the decree for corporal apprehension it will be seen, (No. 17) that it was granted only on the letter of the 30th of October, 1823, that of the 1st of November appeared to have (been) received afterwards.—C. J. B.

the one on the 30th October, and the other on the 1st November, 1823, both letters being of the following tenour.

Fiat insertio, No. 2 and 3.

From the contents of which two letters it will clearly appear, that the object of those letters was to insinuate to His Excellency the Governor, in his official capacity, as Commander-in-Chief, the vile design to deprive him, the prisoner, of his situations, to favour other persons with the same, and to persecute him, the prisoner, in order thereby to satisfy the feelings of enmity against one of the high functionaries here, and in which letters the prisoner has gone so far as openly to accuse His Excellency the Governor, in his official capacity as Commander-in-Chief, of having behaved himself towards him, the prisoner, in a manner which ought to be made public, mean, disgraceful, and infamous ; he, the prisoner, having positively recommended John Collison to whom he has forwarded those two defamatory letters to make the contents thereof public.]*

Which deeds can be considered nothing else but the crime known in the law by the name of Embezzlement or peculatus, [aggravated by the making and publishing of two defamatory writings tending to expose His Excellency the Governor in his high dignities, exercising the chief command, and representing our most respected Sovereign to the inhabitants of this colony, as being guilty of the meanest, most disgraceful, and infamous dereliction of his duty.]†

Which crimes cannot be tolerated in a land of good Justice, but ought openly to be punished for an example, and to deter others.

Fiscal's Office, 5th November, 1823.

(Signed) D. DENYSEN, Fiscal.

A true copy. (Signed) J. T. JURGENS, First Head Clerk.

A true translation. (Signed) J. SUASSO DE LIMA,
Examined. J H. R. Sworn Translator.

* The matter between [] was withdrawn by the prosecutor in court.—J. F.

† This was carefully marked out.—J. F.

No. 1.—Statement of deficiencies in cash, received by the Receiver-General of Land Revenue on account of the Colonial Government in as far as they have been traced by documents, or accessible to the Colonial Audit Department.

To amount of sums collected during the month of September, 1823, as per annexed statement, No. 1 . . .	12,819	5	4
Ditto of Fees collected during the months of July, August, and September, 1823, as per ditto, No. 2 . . .	1151	5	0
Amount of sums collected during the month of October, 1823	1733	4	3
Deduct amount deposited in the Discount Bank	793	3	5
	<hr/>	940	0 4
To which is to be added amount of sums collected by the undermentioned Landdrosts paid by them to the Receiver-General of Land Revenues, and not yet accounted for by the latter :			
From the Landdrost of Graaff Reinet	10,960	5	0
Uitenhage	5712	1	0
George	4531	4	0
Clan William	3074	2	0
Deduct amount accounted for by the Receiver General of Land Revenue, in his statement for the month of September, viz. I. A. v. d. Heever on the Place Riet kloof, 1 year's rent including fees, . . . Rds. 24 6 0			
D. J. Willemze on the place named Langekloof 2 years' rent including fees Rds. 49 4 0			
	<hr/>	74	2 0 3000 0 0
It also appears (from Bylaag 24 Dl. No. 11½, deposited in the Office of Land Revenue) that the following sums were remitted by the Landdrost of George to the Receiver of Land Revenue :			
To amount of Rent on Loan place named Camnasie, possessed by L. B. Dyssel, for one year		24	6 0
Carried forward		<hr/>	39,140 3 2

Brought forward	
Amount of ditto, on ditto, named on Krays River, possessed by A. Schoen- man and Co., for ditto	39,140 3 2
Amount paid by the Agent to the Dis- trict of Worcester, to the Receiver of Land Revenue, for Stamps used by the Secretary of said District, not accounted for by the Receiver of Land Revenue	24 6 0
Amount paid by the Sequestrator on the 7th of March last to the Receiver General of Land Revenue, being for one year's rent due by the estate of T. P. Kirsten and Son, on the place named Swartebergs Valley, not accounted for by the Receiver General of Land Revenue	1876 5 0
Amount paid by ditto, on the 16th October, for two years' rent on said place, not accounted for by do.	710 0 0
	1480 0 0
	<hr/>
Total deficiency Rixdollars	43,231 6 2

MEMORANDUM.

Independent of the sum of 3000 Rixdollars paid by the Deputy Landdrost of Clan William, there is still a balance due on his List of Rixdollars 726. 7. 3. which is not yet known to have been paid to the Receiver General of Land Revenue ; application will be made thereon to Captain Synnot, and should it hereafter be found that this sum was likewise paid to the said Receiver General, the amount must then be added to the above deficiency.

Colonial Audit Office, Cape Town, Cape of Good Hope,
4th November, 1823.

(Signed) WALTER BENTINCK,
Auditor General.

A true Copy. (Signed) J. T. JURGENS,
Head Clerk.

No. 20.

Extract from the Records held before Messrs. J. H. NEETHLING LL.D., and F. R. BRESLER, Commissioned Members of the Worshipful Court of Justice of this Government in the Criminal Case of HIS MAJESTY'S FISCAL, R. O. Prosecutor, *v.* PETRUS STEPHANUS BUISSINNE, Prisoner and Defendant in the aforesaid Case.

On Friday, the 7th of November, 1823, the R. O. Prosecutor and the Prisoner aforesaid having appeared, and the Meeting being opened with the usual solemnities, His Majesty's Fiscal, before entering upon the Trial, stated as follows :

Fiscus R. O. *v.* P. S. Buissinne.

Before commencing with the investigation of the Case for which the Prisoner is about to be tried, the Fiscal begs to observe,

That although at the filing of his Memorial, upon which the Decree of apprehension was granted against the Prisoner, he expected that he should be obliged to proceed against the Prisoner in consequence of fraudulently omitting to enter such items of Cash, received by him as Receiver of Land Revenue, in the books held at his Office, as should have been entered therein ; and, therefore, in case of fraud, that he *has however discovered*,* after the inspection of the Books of Receipts at the Office of Land Revenue, that the items of Receipts, which the Prisoner had maliciously taken away and converted to his own use, are not omitted in these books, but properly entered under their different heads.

That, however, one of these items being the receipt of 710 Rixdollars, in part payment of such rent as was indebted to Government, by the Insolvent estate of the late Johan Fredrik Kirsten, late Tenant of the Government Place, Zwarte Berge Vallei, which sum was paid by the Cashier of the Sequestrator's Office to the Prisoner, on the 7th of March last, by a Bond of L. M. Greef was not properly entered in the Books,

* Consequently the discovery was made, and the examination took place after the Decree for corporal apprehension had been awarded and granted ! !
—C. J. B.

neither accounted for in the monthly Schedules of Receipts of the month of March last, which was sent to the Auditor of Accounts, which, if maliciously done, would make the Prisoner subject to the crime of falsity or forgery.

That it has, however, appeared to the Fiscal, under due submission to the Court's better judgment, that the non-entry of this item in the Books of Receipts of such items, neither in the monthly List of March last, might not improbably have been caused by this circumstance—that the payment of this sum of 710 Rixdollars was only in part payment of what was to be paid to Government, by the Office of the Sequestrator, for rent in arrear of the place Zwarte Berge Vallei, from the Insolvent estate of J. F. Kirsten; the whole amount of this debt, as has appeared to him, was 2100 Rixdollars, and that the Prisoner might intentionally have waited with the entry of this item in his monthly List, as well as in his Books, until the whole should have been paid to be then entered.

As the payment of the remaining 1420 Rixdollars to the Prisoner did not take place before the 16th of October last, and as the Books for the month of October last were not yet prepared, neither the Lists of Receipts of the same drawn up, when the Prisoner was obliged to resign his situation as Receiver, it has appeared to the Fiscal that the omission of the item of 710 Rixdollars in the Books, and on the List of March, is more to be attributed to an improper manner of entering his receipts than to bad faith. Such bad faith, moreover, as has appeared to the Fiscal, can in this particular Case not be supposed, because the receipt of the item is actually marked with pencil in the Books of the Revenues, so that there cannot have existed a bad intention of concealing it. The Fiscal then exhibited as a further elucidation,

1st. Extract from the Books of the Revenues, on which is to be found the entry written in pencil.

2nd. Monthly list of Revenues of the month of March last, from which it appears that the receipt of the above item of 710 Rixdollars is not entered thereon.

The Fiscal, therefore, proposed that before the Act of Indictment be read, their Worships should decide upon the question whether, on the grounds above stated, the Prisoner should not be released from all *reatus* concerning the accusation

of forgery mentioned in his Memorial, for a Decree of Apprehension against him.

The Prisoner upon the above, stated

That he is happy to find that His Majesty's Fiscal has given himself the trouble of examining the Books of Land Revenues, and to give the above Declaration, for which he is greatly obliged to him.*

Commissioners rest satisfied with the Declaration of the Fiscal, and release the Prisoner consequently from all *reatus* concerning the accusation of forgery, as stated in his Memorial, for a Decree of Apprehension against him.

The aforesaid Resolution having been pronounced, His Majesty's Fiscal further stated as follows :

The Fiscal now proceeding with the Case for which the prisoner is to be tried, has the honour, *as specially ordered thereto by His Excellency the Governor*, to inform your Worships that it has graciously pleased His Excellency to transmit to him two Letters written by the prisoner, and addressed one to his Excellency the Governor himself, and the other to his Lady, both which Letters he has the honour to exhibit for inspection to the Commissioners, being of the following purport.

TOWN PRISON, *on the 3rd of November, 1823.*

MY LORD,—An unfortunate man, the husband of an unfortunate wife, and father of three unfortunate children, now feels the tremendous misfortune he has brought upon himself, by want of gratitude, by want of good judgment. Deign, my Lord, to hear him, and let the feeling of humanity once more suppress the feeling of wrath, which my unwarrantable conduct has kindled in your Lordship's breast. I have ill-used your Lordship, I have shamefully rewarded the kindness, aid, and protection, your Lordship bestowed on me. I cannot at present conceive how I could come to write the letters I wrote to Mr. Collison ; no man of a sound mind could have thought of doing such a thing, it was downright madness, it was delirium. My Lord, forgive, Oh forgive, and you will save a worthy woman from the grave, for there she must certainly go if she hears of my imprisonment. I am willing to make any amends your Lordship shall dictate. I will do any thing your Lordship desires, to amend the stigma which I have attempted to throw on your Lordship's character. For God's sake, my Lord, do interfere, and let not the prosecution go on as directed.

Myself am out of the question, I deserve what comes on me, but here is

* "Obliged to him !!!"—J. F.

an unfortunate woman, and three unfortunate children, that implore your Lordship's aid, whilst I can only throw myself on your Lordship's mercy and remain

Your Lordship's most sorrowful and penitent servant,

(Signed) P. S. BUISSINNE.

His Excellency Lord Charles Henry Somerset.

TOWN PRISON, Nov. 3, 1823.

MOST REVERED LADY,—Will you deign to peruse the following lines written by one laid prostrate by misfortune, the severest that could befall a man, for he has to reproach himself as the principal cause of them.

After an accumulation of most distressing circumstances, my mind got so far discomposed that I wrote to Mr. Collison, &c. &c.

With further express directions to declare, that it has moreover graciously pleased His Excellency to desire the Fiscal, that in order publicly to prove His Excellency's continual inclination not to apply to the prisoner the well-deserved wrath of the laws, regarding any thing that concerns His Excellency's person, both the libellous letters, inserted in the Act of Indictment, in which the Prisoner has charged His Excellency the Governor, in his high situation, as representing our much beloved Sovereign, in a most gross and criminal manner, with lies and calumny, should be effaced from the Indictment against the Prisoner, and the Prisoner released from all prosecution on that head.

Upon which the Prisoner observed—

“I hear with a gratifying feeling the declaration of His Majesty's Fiscal, but do in no manner wonder at it. I expected it, for I know the generosity of His Excellency, who cannot as other people do, suffer that the person once fallen to the ground should be further struck down. I am therefore, highly grateful for the favour bestowed upon me, and beg, that His Majesty's Fiscal will have the kindness to inform His Excellency of my feeling, in the most earnest manner, and to assure him, that the apology made by me to him, arises from the purest sources of regret. I also thank Lady Charles, and all others who may have interceded on my behalf, and wish nothing more earnestly than to have an opportunity of showing my gratitude by facts.”

Commissioners rest satisfied with the declaration of the Fiscal, and consequently release the Prisoner of all further prosecution, for the writing and sending of two defamatory letters or writings addressed by the prisoner to John Collison, and dated one on the 30th of October, and the other on the 1st of November of

this year, and consequently erase these points from the act of accusation.

This Resolution, &c. &c.

A true Extract.

(Signed) J. T. JURGENS, 1st Head Clerk.

A true Translation. (Signed) J. SUASSO DE LIMA,
Sworn Translator.

No. 21.

Plan of distribution made by the undersigned Sequestrator in the Insolvent estate of P. S. Buissinne, and presented to His Honour the Chief Justice, Sir J. A. Truter, LL.D., and the Worshipful the Court of Justice for its approval, shewing, that after a deduction of the usual expenses of Rixdollars 6545. 4. as per liquidation account, there remains a sum of rixdollars 77,846. 4. 2. to be divided amongst the respective Creditors, and which should be awarded as follows :

IN PREFERENCE.

To the Vendue Commissaries, &c.	Rixdollars	1286	3	0
Town Treasury, &c.		109	0	0
Lombard Bank, &c.		773	5	2
Colonial Orphan Chamber		6148	2	4
Widow Clarisse, &c.		10,000	0	0
P. G. van der Byl, &c.		14,735	0	0
J. F. van Reenen, &c.		3382	1	4
J. H. Groenewald, &c.		1403	2	4
The Widow C. Paulsen, &c.		1263	0	0
G. H. Meyer, &c.		3382	1	4
J. W. Stoll, &c.		1070	3	0
P. L. Cloete, &c.		11,025	4	2
while the residue of Cash on hand being		23,267	4	0
is received by the Government, who				
claims Rixdollars	43,958	5	5	
but whereas Government receives only	23,267	4	0	
<hr/>				
Government fall short, Rixdollars	20,691	1	5	
<hr/>				
Balance as above, Rixdollars	77,846	4	2	

While to the Creditors, who fall short, viz.

The Government, as above,	Rixdollars	20,691	1	5
Pallas and Poleman, &c.		222	2	0
J. W. Stoll, &c.		4317	1	0
J. H. de Villiers, &c. &c.		3360	0	0

So there fall short Rixdollars 28,590 4 5

the liberty is given to adopt such measures as they may deem expedient.

While the mortgages attached to the immoveable property should be annulled by a Decree.—Thus done and divided at the Sequestrator's Office, in Cape Town, Cape of Good Hope, on the 31st May, 1824, and presented for approval on the. . .

(Signed) R. J. VAN DER RIET,
Sequestrator.

A true Extract. (Signed) J. E. MESTAER,

A true Translation. (Signed) J. SUASSO DE LIMA,
Sworn Translator.

No. 22.

Extract Resolution, taken by His Honour the Chief Justice Sir J. A. Truter, Knight, LL.D., and the Worshipful the Court of Justice of this Government, on Monday 16th of August, 1824.

The Plan of distribution of the estate of P. S. Buissinne, together with the remarks of the Creditors thereon, which was kept for consideration, having again been submitted to the Court,

It was resolved, after due deliberation, to declare, as is done by these presents,

1. That Government has a tacit or legal mortgage on the estate.

2. That that right of legal mortgage commences from the appointment of P. S. Buissinne, as Receiver.

3. That that tacit or legal Mortgage has the same force as a special mortgage, so that it is preferent to all later special mortgages.

4. That the right of mortgage, which the Creditors had on the

landed property of P. S. Buissinne, of which he became proprieted by purchase, and which was transferred to him by their consent, is not at all diminished by the change of Debtor, but that that older mortgage, with all the rights attending thereto, must be considered to be unshaken, so that all similar mortgages must have the preference above all later legal and special mortgages, and also above the legal mortgage of Government.

5. That with regard to the store of P. L. Cloete, the same is mortgaged to him by Kusting Bond, whereby he has a right of mortgage preferent to all even prior legal mortgages.

The Court ordering the Sequestrator to correct the plan of Distribution of the estate of P. S. Buissinne, and to alter the same conformable to the principles laid down as above stated. And an extract of these presents, with a return of the plan of Distribution, shall be granted to the Sequestrator for his information and guidance.

A true Copy, (Signed) D. F. BERRANGE, *Sec.*

A true Copy, (Signed) J. E. MESTAER.

A true Translation, (Signed) J. SUASSO DE LIMA,
Sworn Translator.

No. 23.

Second Plan of Distribution in the Insolvent Estate of Petrus Stephanus Buissinne, altered according to a Resolution bearing date 16th of August last, with the alteration thereby prescribed.

To the Vendue Commissaries .	Rixdollars	1286	3	0
Town Treasury, &c.	—	109	0	0
Lombard Bank, &c. .	—	773	5	2
Colonial Orphan Chamber, &c.	—	6148	2	4
Widow Clarisse, &c. . .	—	10,338	2	4
P. L. Cloete, &c. . . .	—	11,025	4	2
Colonial Government for the deficiency in his capacity as Receiver of Land Revenue not answered for in his administration, therefore a deficiency, according to a Note of the Auditor General of . . .	—	43,958	5	5
Carried forward . . .		73,639	7	5

Brought forward	73,639	7	5
In payment whereof Government receives some schepenkennisse (bonds) passed by the purchasers of the house under special mortgage and securities, of which the interest are (is) commencing from the 1st of December, 1824, Rixdollars 25,000 and in cash a sum of 18,958		5	5
	<hr/>		
as above, rixdollars	43958	5	5
While the residue of cash on hand (is received) being, by P. G. van der Byl, &c.	4206	2	3
	<hr/>		
Balance as above, Rixdollars,	77,846	2	2

Creditors who fall short—

P. G. van der Byl	11,203	3	3
M. van Breda	1800	0	0
J. F. Scheckesberg	2225	0	0
The Discount Bank and			

Deficiency, rixdollars, 189186 7 5*

The liberty is given to the Creditors, who fall short, to adopt such measures as they may deem expedient. While the mortgages attached to the immoveable property is (are) hereby annulled.

Thus altered at the request of the Court by the Sequestrator, on the 6th of September, 1824.

(Signed) R. J. VAN DER RIET, Sequestrator.

A true Extract, (Signed) J. E. MESTAER,

A true Translation, (Signed) J. SUASSO DE LIMA,
Sworn Translator.

* These accounts are evidently inaccurate. The Sequestrator's office has for years been a scene of confusion.—J.F.

No. 24.

Translation.

Extract from the proceedings of *Fiscus v. Buissinne*.

Conclusion of the Claim made by H. M. Fiscal as R. O. Prosecutor before Messrs. J. H. Neethling, LL.D. and F. R. Bresler, on the 7th of November, 1823, *in re* His Majesty's *Fiscal v. Buissinne*.

“ For which and other reasons, if need to be deduced further, His Majesty's Fiscal making claim, concludes that the Prisoner and Defendant, P. S. Buissinne, by a sentence of your Worships, shall be declared guilty of the crime of embezzlement committed by him in his capacity as Receiver of Land Revenue, and therefore incapable to serve the country in any honourable capacity, and that he shall be further condemned to be confined in his Majesty's gaol, or any other secure place for the period of twelve months, and further to be banished from this colony for a period of three successive years.

This, however, without any prejudice to the rights of all such civil actions as the Government, as well as all the other Creditors in the estate of the prisoner may have against him—with further condemnation of the prisoner in the expenses of this proceeding, or such other greater or less punishment as the Court in good justice shall deem meet.

The Prosecutor for the Crown, reserving to himself such further actions against the Prisoner and Defendant as pending, or after the sequestration of the estate of the prisoner, he shall deem meet to institute on behalf of the Government.”

A true Copy.

(Signed)

J. F. JURGENS,
1st Head Clerk.

A true Translation.

(Signed)

J. SUASSO DE LIMA,
Sworn Translator.

No. 25.

Translation.

Extract from the Records held before His Honour the Chief Justice, J. A. Truter, Knight, LL.D., and the Worshipful Court of Justice of the colony (of) the Cape of Good Hope and its dependencies in the case of Petrus Stephanus Buissinne in rehearing of a sentence passed by Commissioners of the Court,

Dated 7th November, 1823, accused of Peculation,

v.

His Majesty's Fiscal, D. Denyssen, LL.D., R.O. Prosecutor,
and

On Thursday the 20th of November, 1823.

Hora X. in the usual Court Room.

P. O. *demptis* Messrs. Bentinck and Borchers by occupation.

Advocate Reitz exhibits the Records of the first instance, with a Letter addressed to him by the Prisoner, in which he charges him with the prosecution of this rehearing; and further states, that, in consequence of said Letter, he had verbally applied to His Honour the Chief Justice to assist the Prisoner, *pro Deo*, which request was granted him; the aforesaid Records being of the following purport.

F. I.

After which Advocate Reitz stated as his claim in re-hearing.

F. I.

His Majesty's Fiscal replied to the claim in substance as follows.

“ If the Lessons just now advanced by the Advocate for the Prisoner, &c.”*

* This is intended merely to shew that the Fiscal proposed grievance à *minimâ*, and that Advocate Reitz, for Buissinne, did oppose himself to the proposing of such grievance.—C. J. B.

This being considered sufficient to meet what was advanced in his claim on re-hearing, by the Advocate for the Prisoner, I have only to add, that as the Prisoner has come in re-hearing of the very lenient Sentence of Commissioners, and thinks himself aggravated by it, we have only to observe, respecting the punishment upon the Prisoner's crime, that the same may be inflicted *arbitrio judicis*, according to the aggravating or alleviating circumstances connected therewith. There is no want of examples. One De Witte, at Amsterdam, was some years ago scourged, branded, and for ever banished, because he had negotiated Bonds in favour of Pupils who were under his administration, after having erased a certain mark which was placed upon them. Had this crime of Forgery not accompanied it, the punishment would certainly not have been so heavy, even as the Prisoner's crime should not have been punished in any other manner than with corporal punishment, if the at first supposed accusation of Forgery had been realized. I consider, therefore, that the aggravating circumstances, as proved by me, which are connected with the crime of the Prisoner, make him altogether worthy of the punishment claimed by ons (us) in the first instance ; and for these considerations in re-hearing, I think myself justified in making these remarks, or in other words, I consider myself justified to make a claim in reconvention, or to propose grievance *à minimâ*, without being obliged to notify an Appeal. I am justified to do this by the re-hearing of the Prisoner. This follows from the nature of the Case, and is asserted on the authority of Laws and Practical Writers, as is found among others in the l. ult. princ. in fine Cod. de Appell. et Consult. Lib. VII. tit. 62. Gail. Obs. lib. 1. Obs, 122. § 2. Zypæus Not. Jur. Belg. alleged by Wassenaar in his Jud. Pract. cap. 24. § 14. Van der Linden, Jud. Pract. vol. i. lib. 2, cap. 24. p. 355. and in his Compendium, lib. 3. p. 6. page 345. which also seems to be the opinion of Van Leeuwen, Comment. on his (the) Roman Dutch Laws, Lib. V. part 25 and 26.*

Upon all which grounds His Majesty's Fiscal made the following claim ; denying the arguments of the claim of the Prisoner and Appellant, before answering thereto, in re-hearing,

* On reference to these authors, you will find them to only speak of appeals, not of re-hearing.—C. J. B.

making claim *à minimâ*, concludes that the Sentence of the Commissioners passed in this Case shall be retracted, and that as yet justice may be done upon the claim made in the first instance, making also claim for the expences both of this as (in) the first instance.

And further answering to the claim in re-hearing, concludes, that the proceedings of the Appellant shall be declared to be inadmissible ; and that the Prisoner and Appellant's demand and conclusion made against the R. O. Respondent shall be rejected with costs.

Advocate Reitz says, we must oppose ourselves against the manner in which the Fiscal proceeded in re-hearing, in proposing grievance *à minimâ*, and in concluding, that his demand and conclusion made in the first instance shall be adjudged to him, and this our opposition is founded, &c. &c. &c.

The Fiscal says, &c.

The Court declares the R. O. Defendant authorized to propose grievance *à minimâ*, leaving it to the Advocate for the Appellant to propose his arguments against said grievance, if he pleased.

Advocate Reitz says that he persists in what he has said.

(Translation.)

The Court having seen and examined the Records kept at the first instance, heard the pleadings of both parties in re-hearing, and having considered every thing worth their consideration, or which in any way could move the Court, administering justice in the name and on behalf of His Great Britannic Majesty, declares the Prisoner and Appellant guilty of the crime of Embezzlement of the Public Money, *aggravated by Perjury*, and consequently unworthy and incapable of holding any office under His Majesty's Government, condemns the Prisoner and Appellant to be banished from this Colony, and the dependencies thereof, for the term of Seven successive Years, on pain of more severe punishment should he return within that period : Declares that this banishment shall only take effect after the Prisoner's and Appellant's Estate shall have been liquidated by the Sequestrator, and after the Prisoner and Appellant shall have rendered proper Account of his Adminis-

tration as Receiver of Inland Revenue, and acquitted thereof by his Majesty's Government, or in default of rendering proper account and . . released by His Majesty's Government in some other legal manner from that obligation: Orders that the Prisoner and Appellant shall remain in close confinement till such time as he shall have complied therewith, and then confined at Robben Island, or some other secure place, till a fit opportunity shall offer for his being sent away; the day of the Prisoner and Appellant's embarkation to be considered as the commencement of the term of his banishment, with further condemnation of the Prisoner and Appellant in the costs and expences of the prosecution, and setting aside the further claim and conclusion made by the R. O. Prosecutor and Respondent against the Prisoner and Appellant, by which, however, is not to be understood that any thing has been decided in the Case with respect to the rights of the Prisoner and Appellant's remaining creditors against his person and property.

Thus done and decreed in the Court of Justice at the Cape of Good Hope, *die et anno ut supra*, and pronounced the same day.

(Signed)	J. A. TRUTER.
	W. HIDDINGH.
	J. H. NEETHLING.
	F. R. BRESLER.
	J. C. FLECK.
	R. ROGERSON.

In my presence, (Signed) D. F. BERRANGE,
Secretary.

On this day, the 28th November, 1823, the Advocate, Mr. Reitz, for the Prisoner and Appellant, noted an appeal against the above sentence to the Right Honourable Court of Appeals for criminal cases, at the Cape of Good Hope.

(Signed) D. F. BERRANGE, Secretary.

No. 26.

COURT OF JUSTICE.

Sentence in the criminal case of DANIEL DENYSSEN, Esq.
His Majesty's Fiscal, Prosecutor for the Crown,

versus

PETRUS STEPHANUS BUISSINNE, Prisoner in said case.

Whereas it has evidently appeared to the Court of Justice, from the investigation held on the first instance,

That the Prisoner in this case, forty-five years of age, and born in this colony, has not scrupled in his capacity as Receiver of Land Revenue, to appropriate to himself, and convert to his own private use a considerable sum, amounting to upwards of forty thousand rixdollars of the monies successively received by him in his said capacity, in such manner that, on the discovery of the enormous deficiency, the Prisoner declared, at the same time acknowledging the fact, that he had not any thing whatsoever to make it good ; and, a few days afterwards, gave up the whole of his estate to the administration of the Sequestrator.

And as it therefore appears that the Prisoner in this case has been guilty of embezzlement of the public money, *aggravated* by *perjury* ; which crimes cannot be tolerated in a country where justice prevails, but on the contrary should be rigorously punished according to the laws, as an example to deter others from doing the like.

So it is that the Court, having read and examined the records of the trial in the first instance, having heard the pleadings on both sides in appeal, and taking every thing into consideration which deserved attention, or could move the Court administering justice in the name and on behalf of His Britannic Majesty, declares the Prisoner unworthy and incapable of ever serving in any office under His Majesty's Government ; condemns the Prisoner, and he is hereby condemned accordingly, to be banished from this colony and the dependencies thereof for the term of seven successive years, on pain of more severe punishment should he return within that period ; declares that the banishment shall not be carried into effect till after

the Prisoner's estate shall have been liquidated by the Sequestrator, and the Prisoner have rendered due accounts and vouchers of his administration as Receiver of Land Revenue, and thereupon acquitted and discharged by Government, or in default thereof released by His Majesty's Government in some other legal manner from that obligation; orders that the Prisoner shall remain in close confinement till such time as he shall have complied therewith, and then confined at Robben Island, or some other secure place, till a fit opportunity shall offer for his being sent away: the day of the Prisoner's embarkation to be considered as the commencement of the term of his banishment, with further condemnation of the Prisoner in the costs and expenses of the prosecution; and setting aside the other claim, and conclusion made by the R. O. Prosecutor and Respondent against the Prisoner; by which, however, it is not to be understood that any thing has been decided in this case, with respect to the rights of the Prisoner's remaining creditors, against his person and property.

Thus done and decreed in the Court of Justice at the Cape of Good Hope on the 20th November, 1823, pronounced the same day, and after having obtained the Fiat of His Excellency the Governor and Commander-in-Chief, promulgated on the 16th of January following.

(Signed) J. A. TRUTER.
W. HIDDINGH.
J. H. NEETHLING.
F. R. BRESLER.
J. C. FLECK.
R. ROGERSON.

In my presence. (Signed) D. F. BERRANGE,
Secretary.

Fiat Executio.

With the exception, however, of that part of the sentence which pronounces the Prisoner's guilt to be aggravated by perjury, which I do not find brought in proof before the Court.

(Signed) CHARLES HENRY SOMERSET.

No. 27.

ANSWERS TO QUERY 3.*

Mr. Buissinne surrendered his estate by a letter dated 29th October, 1823, to the Sequestrator. See document No. 1, amongst the papers of the estate of Mr. Buissinne, at the Sequestrator's office.

According to a letter of W. Bentinck Esq., Auditor General, dated the 12th of December, 1823, and addressed to the Sequestrator, in which was enclosed a statement of deficiencies, dated 4th of November 1823, it was stated that the claims of Government on the estate of Mr. Buissinne, amounted to Rixdollars 43,958. 5. 5. (See documents as above No. 30.)

The whole amount of the demands of all the Creditors, was Rixdollars . . . and the whole amount of the goods sold, &c. was Rixdollars 84,391, 6. 2., of which Rixdollars 6545. 4. 0. went to the payment of Sequestrator's dues, fees, and expenses. So that the sum to be distributed amongst the Creditors amounted to Rixdollars 77,846. 2. 2., the Sequestrator then not considering Government to hold a legal Mortgage on the property of Mr. Buissinne, awarded that amount by preference to those Creditors whom he considered to hold a preference, and gave to Government, in payment of its claim of Rixdollars 43,958. 5. 5. only Rixdollars 23,267. 4. 0. This appears from the dividend made by the Sequestrator, dated 31st of May 1824, and is laying amongst the papers of the estate, and marked N.

The Fiscal opposing himself to this dividend, addressed himself to the Court of Justice, who by its resolutions, dated 16th of August 1824, declared Government to hold a legal and tacit Mortgage on the property of Mr. Buissinne. Upon which the Sequestrator made a second dividend, dated 6th of September 1824, in which the claim of Government was paid in full. (See the document as before stated marked N.)

N. B. Government on this award was paid in full, and on account of said award, the Securities were freed or liberated without paying a single farthing towards the payment of Government claims.

* These queries were put by me to Mr. Brand while preparing the case. The answers explain their nature.—J. F.

To Query 5. The Decree of apprehension was granted on the 2nd of November 1823, being a *Sunday*.

To Query 9. Did the Prisoner appeal to the full Court ?—
J. F.

C. Yes, he noted his Appeal on the 28th of November 1823, and it appears that he prosecuted his Appeal as late as on the 1st of March 1824, and after the sentence against him had already been *fiated*, and afterwards published on the 16th of January 1824, which circumstance may probably be an additional reason why his Appeal was rejected. The state of the case was thus .—

2nd. of November 1823.

5th do.

7th do.

9th do.

20th.

28th

16th of January 1824.

Decree of suspension was granted.

Act of Indictment was read to him.

He was tried.

He appealed to the full Court.

He was heard in Appeal before the Court of Justice, and sentence was passed.

He noted an Appeal to the Court of Appeals.

The Fiat of the Governor was read in Court and the same with the sentence published.

C. The Reason why the Appeal to the Court of Appeals was rejected cannot be ascertained, as they (the reasons,) are never mentioned, but considering the reasons of opposition on the part of the Fiscal, to all probability the prayer of Buissinne made on the 1st of March 1824, that he might be allowed as yet to prosecute his Appeal has been rejected, (on the 31st of March 1824) for want of due prosecution, the Order of the Court, (31st of March 1824) only says, "that the prayer is rejected."

Note. According to an Order of the Court of Appeals of an old standing, it has been directed that all Appeals in Criminal Cases shall be prosecuted, and the Case of Appellant be filed within eight days, which time had elapsed on the 5th or 6th of December 1823.

The Sentence of the Court of Justice, may be found in the Government Gazette of the 29th of November 1823.

A. When the Sentence was forwarded to Government for

the Governor's Fiat, the Governor requested the Court to know their reasons for adding the crime of perjury, as it did not appear that Mr. Buissinne, on entering into his situation, did ever make the oath necessary and required on such occasions. And although I could not obtain a Copy, yet I know and have read in 1824, a long letter which the Court has written to Government, shewing their reasons. Nevertheless the Fiat was granted, thus, "*Fiat executio*, with exception of that part of the sentence, which pronounced the Prisoner's guilt to be aggravated by perjury, which I do not find brought in proof before the Court."

B. If I remember well, I think I have read in the Court's letter to Government, "that although Mr. Buissinne did not actually make the oath required on his entering into his situation, nevertheless he was guilty of perjury, because he knew that such oath was to be made by him, and he consequently by his having acted under that oath, must be considered to lay under the same."

I think also that I know for certain, that the sentence of the Court for perjury, was not founded upon Buissinne's quarterly oath, but upon the oath to be made on entering in office, (which the Court without inquiring therein thought he had made, and consequently found him guilty). It was after the sentence of the Court was passed, that it was ascertained from the book kept at the Colonial Office, that Mr. Buissinne had not made that oath. But the Fiscal, I at that time remember to have heard, knew of that circumstance, and consequently neither in the Act of Indictment, or in his pleadings, spoke a word about the oath.—J. C. B.

[Office Copy.]

Letter from R. W. HAY, ESQRE., to T. P. COURTENAY, ESQRE.

DOWNING STREET, 12 June 1827.

SIR,—I am directed by Viscount Goderich to desire that you will pay the sum of £400 to the Bishop of Calcutta in order to cover his Expenses to which he will be subjected by proceeding

